



Overberg District Municipality

**OVERBERG DISTRICT  
MUNICIPALITY  
DELEGATIONS FRAMEWORK  
POLICY  
SECTION 59 MUNICIPAL  
SYSTEMS ACT**

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## **INTERPRETATION**

### **Definitions**

In this document, unless the context otherwise indicates:

<b>“ administration”</b>	means the municipal manager and the other employees of the municipality;
<b>“ after consultation”</b>	means with due regard for the views of any person with whom a delegated body is required to consult before he/she exercises delegation or sub-delegation power;
<b>“ Constitution”</b>	means the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996);
<b>“ Council”</b>	means the municipal council of the municipality, its legal successors in title and as referred to in section 157(1) of the Constitution of South Africa;
<b>“delegating authority”</b>	in relation to a delegation of power by the council, means the council and in relation to a sub-delegation of a power by a delegated body, means that delegated body;
<b>“delegation”</b>	in relation to a duty, includes an instruction to perform the duty,
<b>“delegate”</b>	has a corresponding meaning;
<b>“delegated body”</b>	in relation to the delegating of the power means the political structure, political office bearers or employee to whom a power has been delegated in writing by the delegating authority;
<b>“IDP”</b>	means the Integrated Development Plan of the Council;
<b>“in consultation”</b>	means with the concurrence of the person with a delegated body must consult before exercising delegated or sub-delegated power;
<b>“MEC”</b>	means the member of the Provincial Executive Council responsible for Local Government;

<b>“MFMA”</b>	means the Local Government: Municipal Finance Management Act 2003 (Act No. 56 of 2003);
<b>“power”</b>	includes a duty and function;
<b>“ political office bearer”</b>	in relation to a municipality, means the speaker, mayor, deputy mayor, or a member of the executive committee of a municipality as referred to in the Structures Act,
<b>“political responsibility”</b>	means the obligation to develop strategies and policies and to ensure the implementation thereof;
<b>“political structure”</b>	in relation to the municipality, means the Council or any committee or other collective structure of the municipality elected, designated or appointed in terms of the Structures Act;
<b>“portfolio chairperson”</b>	means a member of the Executive Committee appointed by such committee as chairperson of a specific portfolio committee;
<b>“MPRA”</b>	means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004)
<b>“Structures Act”</b>	means the Local Government: Municipal Structures Act, 1998, (Act No. 117 of 1998)
<b>“Systems Act”</b>	means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

## **1. INTROCDUCTION**

The Constitution of the Republic of South Africa states that the legislative and executive authority of the municipality is vested in the municipal council. The municipality has the function and powers assigned to it in terms of section 156 and 229 of the Constitution. In terms of Section 53 of the Systems Act, that states that the municipality must define specific roles and areas of responsibilities for each political structure or political office bearer of the Municipality and that of the Municipal Manager. These respective roles and areas of responsibilities may include the delegation of power and duties

In terms of Section 59(1) of the Municipal Structures Act, 32 of 2000 must the Municipality develop a system of delegation that will maximise administration and operational efficiency and will provide for adequate checks and balances.

The delegations framework also provides for delegation delegate in terms of other legislation and makes provision for the exclusion of power as mentioned in section 160(2) of the Constitution and provides for the delegations restrictions to the Executive Mayor or Executive Committee which ever is adopted by the Municipality.

After the delegation framework has been accepted by the Municipality does section 59(2) of the Municipal Systems Act also allow for the municipality to review of the approved delegation framework as and when require.

The content of this framework was drafted utilising Cogta guidelines and other source document.

## **2. COUNCIL**

### **POWERS RESERVED FOR COUNCIL BY LEGISLATION**

In terms of section 160(2) of the Constitution, 1996, the following powers may not be delegated by a municipal council; namely:

- (a) the passing of Bylaws;
- (b) the approval of budgets;
- (c) the imposition of rates and other taxes, levies and duties; and
- (d) the raising of loans.

In addition to the aforementioned four powers the following three powers may in terms of section 59 of the System Act, 2000 also not be delegated by the Council: namely:

- (i) the power to set tariffs;
- (ii) the power to decide to enter into a service delivery agreement in terms of section 76 (b) of the System Act 2000; and
- (iii) the power to approve or amend the integrated development plan (IDP) of the Council.

Section 82 (1) of the Structures Act provides that a municipal Council appoints the Municipal Manager who is the head of administration and also the accounting officer for the municipality.

In terms of Section 56 (a) a municipal council, after consultation with the municipal manager, appoints a manager directly accountable to the municipal manager.

## **A. DELEGATIONS: POLITICAL OFFICE BEARERS**

**SPEAKER**





## **2. SPEAKER DELEGATION**

Acting in terms of section 59 of the Systems Act, Council hereby delegates the following powers to the Speaker including the power to sub-delegate any of his or her delegated powers, functions and duties:

The power to incur expenditure necessary for the performance of the functions in the office of the Speaker within the Budget;

The power to appoint an initiator to present a case against a Councillor for contravention of the code of conduct for Councillors at the disciplinary hearing and to undertake any investigation in connection therewith;

The power to preside at the meetings of the Council;

- 2.1 The power to ensure that the Council meets at least quarterly;
- 2.2 The power to maintain order during meetings of Council;
- 2.3 The power to ensure compliance with the Code of Conduct for Councillors;
- 2.4 The power to ensure that the Council meetings are conducted in accordance with the Rules of Order of the Council;
- 2.5 The power to report the outcome of an investigation against a Councillor to the MEC for Local government;
- 2.6 The power to exercise her/his duties as the relevant appeal authority in terms of the Promotion of Access to Information Act 2 of 2002.
- 2.7 Line of Accountability and reporting: The Speaker reports to, and is accountable to the council

# **THE MAYOR**

### **3. MAYOR**

#### **DELEGATIONS BY COUNCIL TO THE MAYOR**

Acting in terms of Section 59 (1) (c) of the Systems Act Council hereby withdraws all existing delegations.

Acting in terms of section 59 of the Systems Act, Council hereby delegates the powers as reflected in this document to the Mayor including the power to sub delegate any of his or her powers to a member of the MFMA and Portfolio Committees:

#### **CIVIC AND CEREMONIAL DUTIES**

- 3.1 The power to receive and interview representatives and delegations from international and national agencies, public, interest groups etc
- 3.2 The power to represent the Council at meetings and functions.
- 3.3 The power to make media statements on all matters on behalf of the Municipality.
- 3.4 The power to perform the ceremonial duties at the opening of projects, civic functions and events, and new buildings.
- 3.5 The power to host and welcome dignitaries.

#### **SUBMISSION OF REPORTS**

- 3.6 The power to submit reports and recommendations in terms of section 56 of the Municipal Structures Act to Council on matters reserved to the Council.
- 3.7 The power to submit reports and recommendations received from other committees to the Municipal Council, together with any comments and recommendation.
- 3.8 The power to submit reports and recommendations received from members of the Portfolio committees to the municipal Council, together with any comments or recommendations.
- 3.9 The power to close meetings of the MFMA and Portfolio Committees to the members of the public, including the media, in terms of section 20 of the Municipal Systems Act.

## **CORPORATE ENTITIES, UTILITIES, AGENCIES**

- 3.10 The power to provide the official line of communication between the Municipality and its municipal entities, in terms of section 93 (d) of the Municipal Systems Act
- 3.11 The power to appoint to, remove or recall a director of a municipal entity Appointed, or nominated by the Municipality, in accordance with section 93 E and G of the Systems Act;
- 3.12 The power to appoint and nominate to, or remove or recall municipal Representatives, from the board of any corporate entity, utility or agency in terms of an agreement or other legal instrument governing such appointment, or nomination;
- 3.13 The power to convene a meeting of shareholders or another general meeting comprising the board of directors of a municipal entity and representatives of the Municipality, in order for the board to give account of its actions, in terms of section 93(d) of the Municipal Systems Act;
- 3.14 The power to table the proposed budget of a municipal entity when the annual budget of the Municipality for the relevant financial year is tabled;
- 3.15 The power to determine the upper limits of the salaries, allowances and other benefits of the CEO and senior managers of municipal **entities** in terms of section 89 of the MFMA;

## **INTEGRATED DEVELOPMENT PLAN (IDP)**

- 3.16 The power to consult affected organs of state and to advise Council on methods of aligning the municipality's planning, development plans and strategies with such affected organs of state;
- 3.17 The power to approve a process that will guide the Council in the planning, drafting, adoption and reviewing of an integrated development plan, as required in terms of Section 28 of the Municipal Systems Act

## **PERFORMANCE MANAGEMENT OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO HIM**

- 3.18 The power to oversee the monitor the performance of the Municipal Manager in terms of section 99(a)(i) of the Municipal Systems Act;
- 3.19 The power to enter into a performance agreement with the Municipal Manager on behalf of the Municipality, in terms of section 57(3) of the Municipal Systems Act;

- 3.20 The power to review the performance of the Municipal Manager in accordance with the performance management system and policy of the Municipality;
- 3.21 The power to approve of key performance indicators and targets of the Municipal Manager and managers directly reporting to the Municipal manager;
- 3.22 The power to determine or alter the remuneration, benefits or conditions of service of the Municipal Manager and managers directly reporting to the Municipal Manager, in terms of applicable legislation;
- 3.23 The power to constitute evaluation panels for the purposes of evaluation of the annual performance of the municipal manager and managers directly accountable to him in terms of Regulation 27 of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to municipal managers, 2006 (GN 805 of 1 August 2006);
- 3.24 The power to make public, no later than 14 days after the approval of the Municipality's service delivery and budget implementation plan, the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, and to submit copies of such performance agreements to the Council and to the MEC for local government in the Western Province;

## **FINANCE**

- 3.25 The power to table the annual budget of the Municipality at a Council meeting at least 90 days before the start of the budget year;
- 3.26 The power to coordinate the processes for preparing the annual budget and for reviewing the Municipality's integrated development plan and budget – related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget related policies are mutually consistent;
- 3.27 The power to apply to the MEC of the Western Cape Province of the extension of any time limit or deadline as provided in section 27(2) of the Act MFMA;
- 3.28 The power to provide general political guidance over the fiscal and financial affairs of the Municipality;
- 3.29 The power to monitor and, to the extent provided in the Act, to oversee the exercise of the responsibilities assigned in terms of the Act to the Accounting officer and the Chief Financial Officer, subject to the restrictions contained in paragraph (b) of section 52 of the Act;

- 3.30 The power to take all reasonable steps to ensure that the Municipal performs its constitutional and statutory functions with the limits of its approved budget;
- 3.31 The power to submit, within 30 days of the end of each quarter, a report on the implementation of the budget and the financial state of affairs of the Municipality;
- 3.32 The power to provide general political guidance over the budget process and the priorities that must guide the preparation of the budget;
- 3.33 The power to sign a resolution of the Council, as contemplated in paragraph (a) of subsection (2) of Section 45, for the purpose of the incurring of short-term debt by the Municipality;
- 3.34 The power to sign a resolution of the Council, as contemplated in paragraph (a) of subsection (2) of Section 46, for the purpose of the incurring of long-term debt by the Municipality;
- 3.35 The power to sign a resolution of the council, as contemplated in paragraph (b) of Section 50 read with Sections 45 (2)(a) and 46(2)(a) of the Act, for the purpose of a guarantee by the Municipality of a debt of a municipal entity under its sole control;
- 3.36 The power to report to provincial executive if conditions for provincial intervention exist as contemplated in Section 55 of the MFMA.

### **GENERAL DELEGATIONS**

- 3.38 The power to recommend to Council the appointment of a Municipal Manager and when necessary the Acting Municipal Manager when the position of the Municipal Manager becomes vacant;
- 3.39 The power to appoint a manager directly accountable to the Municipal Manager in consultation with the Municipal Manager;
- 3.40 The power to take appropriate measures to ensure that any issues raised by the Auditor-General in an audit report are addressed by the Municipality;
- 3.41 The power to make a grant to an organisation or institution to which the Municipality is lawfully empowered to make such grants, or which promotes or contributes to the purpose of duties of local government;
- 3.42 The power to accept conditional donations;
- 3.43 The power to approve any national or international travel of all Councilor's

and members of the Port-folio Committee including the payment of travel and subsistence allowances;

- 3.44 The power to appoint any councilors as official delegates or representatives at conferences, congresses, workshops, seminars, symposia, etc;
- 3.45 The power to enter into sisterhood/twinning agreements as part of the Municipality international relations;
- 3.46 The power to approve membership of any body, organisation or institution on behalf of the Municipality;
- 3.47 The power to approval to any system or project for any of the functions in the office of the Mayor;
- 3.48 The power to approve an annual events calendar for the Municipality;
- 3.49 The power to enter into any agreement with any organisation or institution for a purpose for which the Municipality is legally empowered to contract, subject to section 33 of the MFMA;
- 3.50 The power in terms of section 135 of the MFMA to seek the resolution of financial problems;
- 3.51 The power to undertake any development or project in the Municipality in respect of any functions of local government or in terms of any applicable legislation, subject to section 33 of the MFMA;
- 3.52 The power to review and recommend to Council on the mechanism to provide municipal services in terms of section 78 of the System Act;
- 3.53 The power to monitor the management of the Municipality's administration in accordance with the policy directions of the Municipality;
- 3.54 The power to establish systems to revise the Municipality's performance management system in terms of section 40 of the Municipal Systems Act;
- 3.55 The power to recover unauthorised, irregular or fruitless or wasteful expenditure from political office bearers, the Municipal Manager and managers directly accountable to the Municipal Manager and any former councilor(s);
- 3.56 The power to designate a councilor to fulfill the function of Mayor in the absence or unavailability of both the Mayor and Deputy Mayor;
- 3.57 The power to appoint members of the Civilian Oversight Committee, in terms of section 64 J the South African Police Services Act 68 of 1995;



- 3.58 The power to appoint statutory committees where this authority has not been reserved for Council, in terms of any legislation;
- 3.59 The power to declare a local state of disaster as contemplated in section 55 of the Disaster Management Act 57 of 2002;
- 3.60 The power to determine the appropriate policies that should be developed, to take steps for the development thereof and to recommend such policies to Council;
- 3.61 The power to determine appropriate bylaws that should be drafted, to take steps for the drafting thereof and to recommend such bylaws to Council;
- 3.62 The power to determine policy direction for the Municipal Manager as the head of the administration in terms of section 55 of the Municipal Systems Act;
- 3.63 The power to determine the policy framework in terms of section 66 of the MSA, in respect of staff establishment, job description, remuneration and other conditions of service and evaluation of staff establishment of the municipality;
- 3.64 The power to expropriate immovable property or rights in or to immovable property;
- 3.65 Notwithstanding the a foregoing and without any limitation other than as may be imposed by the statute, the power to exercise the Executive Authority of Council as inter alia referred to in Section 11 of the Municipal Systems Act

# **THE DEPUTY MAYOR**

#### **4. DEPUTY MAYOR**

The Deputy Mayor exercises the powers and performs the duties of the Mayor if the Mayor is absent or is not available or if the office of the Mayor is vacant.

Acting in terms of section 59 of the Systems Act, Council hereby delegates the above powers to the Deputy Mayor including the power to sub-delegate any of his or her delegated powers; and the power to incur the necessary expenditure for the performance of the functions in the office of the Deputy Mayor within budget.

#### **OTHER DELEGATIONS:**

4.1 As it may be delegated from time to time by the Mayor or Council.

# **MEMBERS OF THE EXECUTIVE COMMITTEE**

## **5. MEMBERS OF THE EXECUTIVE COMMITTEE**

The powers assigned, by virtue of the Municipal Structures Act in terms of Section 44, to the Executive Committee may be delegated by the Executive Committee to other Portfolio Committees.

### **5.1 CONDITIONS FOR THE DELEGATIONS**

The delegation must –

- 5.1.1 Be in writing;
- 5.1.2 Be subject to any limitation or condition that the Mayor may impose, and;
- 5.1.3 Does not divest the Mayor of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty;
- 5.1.4 The Mayor may confirm, vary or revoke any decision taken in consequence of the aforesaid delegation, but no such variation or provocation of a decision may detract from any rights that may have accrued as a result of the decision.

### **5.2 DELEGATION BY THE EXECUTIVE COMMITTEE TO MEMBERS OF THE PORTFOLIO COMMITTEES (PORTFOLIO COUNCILORS)**

Acting in terms of section 44 of the Systems Act, the Executive Committee hereby delegates the powers reflected in this document to the Councilor of the Portfolio Committee subject to any conditions that may impose.

#### **FUNCTIONAL AREAS:**

- 5.2.1 Financial Services
- 5.2.2 Community Services
- 5.2.3 Corporate Services
- 5.2.4 Local Economic Development and Tourism

### **5.3 DELEGATION**

The Portfolio Councilor shall have the following powers in respect of the identified functional areas:

- 5.3.1 The power to submit reports and recommendations to the respective Committee on matters falling within the Terms of Reference of that committee;

- 5.3.2 The power to submit reports with recommendations to the Executive Committee;
- 5.3.3 The power to monitor the implementation of Council's IDP, budget, business plan, strategic objectives, policies and programs and report herein to the Executive Committee and Mayor;
- 5.3.4 The power to assess the performance of service delivery generally within the functional area of the respective committee and report to the Executive Committee and Mayor;
- 5.3.5 The power to identify the needs of the Municipality as far as it relates to the functional area of the committee and to recommend the same to the Executive Committee and Mayor;
- 5.3.6 The power to determine the best way, including other approaches to deliver on Council strategies, programs and services the best interest and maximum benefit of the Municipality and to recommend the same to the Executive Committee and Mayor;
- 5.3.7 The power to ensure that during the deliberations of the committee regard is given to stakeholder views and report on the input/outcome of stakeholder consultation/participation processes to the Executive Committee and Mayor;
- 5.3.8 The power to oversee and monitor the Directors, on behalf of the Mayor on the development of any policies and strategies of the Portfolio functions of the Strategic Management Areas;
- 5.3.9 The power to oversee and monitor the Directors, on behalf of the Mayor, with regard to the development of any bylaws in respect of the Portfolio functions of the Strategic Management Areas;
- 5.3.10 The power to oversee and monitor the Directors, on behalf of the Mayor, with regard to the preparations of the annual operating and capital budget for the Strategic Management Areas;
- 5.3.11 The power to oversee and monitor with the Directors the strategic planning process and ensure the development of key performance indicators and targets for the Directors;
- 5.3.12 The power to oversee and monitor the Directors with regard to the development, implementation and review of projects and programs for Strategic Management Areas;
- 5.3.13 The power to submit progress reports to the Mayor and Executive Committee with regard to the implementation of the strategic plan of the Municipality.

## **B. THE ADMINISTRATIVE DELEGATIONS**

### **THE MUNICIPAL MANAGER**

## **DELEGATION OF POWERS BY COUNCIL TO THE MUNICIPAL MANAGER**

Acting in terms of Section 59(4) of the System Act, Council hereby authorises the Municipal Manager to delegate any of his statutory powers, functions and duties.

Acting in terms of Section 59 (1) (a) of the Systems Act Council hereby delegates the following specific powers to the Municipal Manager:

1. The power to draft and finalise the Municipality's Performance Management System and to take all steps necessary to implement same;
2. The power to implement the Integrated Development Plan;
3. To appoint staff (other than a Manager directly accountable to the Municipal Manager);
4. The power to approve a staff structure;
5. The power to attach to staff posts appropriate remuneration and conditions of service (other than a Manager directly accountable to the Municipal Manager);
6. The power to maintain discipline and ensure sound labor relations amongst staff. Including inter alia the following specific powers:
  - (a) The power to institute disciplinary proceedings;
  - (b) To dismiss employees;
  - (c) The power to impose any other appropriate sanction as may be allowed in terms of the relevant collective agreement;
  - (d) The power to transfer staff;
  - (e) The power to institute investigations in respect of allegations of misconduct or complaints against staff;
  - (f) The power to retrench staff;
  - (g) The power to deal with any aspect of staff as may be required in order to fulfill the overall objective to ensure proper functioning and fulfillment of the objectives and responsibilities of the Municipality.
  - (h) The power to suspend an employee subject to existing collective agreements.



7. The power to draft appropriate Bylaws for submission to Council
8. The power to prepare a draft budget for approval by Council;
  - (i) The power to institute and defend any legal action on behalf of the Municipality;
  - (ii) The power to enforce Bylaws;
  - (iii) The power to take all steps necessary to ensure that the financial and other resources of the Municipality are utilised effectively, efficiently and economically
  - (iv) The power to take all steps necessary to ensure that irregular expenditure, fruitless and wasteful expenditure are prevented
  - (v) The power to ensure that all revenue due to the Municipality is collected;
  - (vi) The power to invest funds on behalf of the Municipality in the best interest of the Municipality;
  - (vii) The power to establish and maintain a website;
  - (vii) The power to take all steps necessary to safeguard assets;
  - (ix) The power to sign contracts on behalf of the Municipality;
  - (x) The power to open the Municipality's bank account as contemplated in section 7 8, and 10 of the MFMA.
  - (xi) The power to disburse funds and approve expenditure on behalf of the Municipality;
  - (xii) The power to implement all steps necessary to ensure that the Municipality complies with all the relevant provisions of the Occupational Health & Safety Act 85 of 1993;
  - (xii) The power to implement all steps necessary to ensure that the Municipality complies with all its obligations in terms of the Promotion of Access to Information Act, 2 of 2002, as well as the amendments thereto falling under Act 54 of 2002;
  - (xiv) The power to implement and take all steps necessary in terms of the Municipality's Credit Collection Bylaw, including inter alia, the instructing of attorneys, instituting and defending actions and the instructing of any other form of collection agency which may be

necessary to ensure compliance with same;

- (xv) The power to take all steps necessary to comply with the Promotion of Administrative Justice Act, Act 3 of 2000;
- (xvi) The power to take all steps necessary on behalf of the Municipality to comply with the National Credit Act, 34 of 2005;
- (xvii) The power to recommend to the Mayor the appointment of a manager directly accountable to the Municipal Manager;
- (xviii) The power to recommend to the Mayor, any international travel of any employee, including the payment of travel and subsistence allowances;
- (xix) The power to appoint any employee as official delegate or representative at conferences, congresses, workshops, seminars, symposia, etc;
- xx) The power to do all things necessary to implement policies and resolutions of Council and the Mayor, or otherwise protect the interests of the municipality, notwithstanding that such action may not specifically be referred to herein, subject to consultation with the Mayor, where possible, and to any statutory limitations or Council's directives to the contrary;

**OTHER DELEGATIONS:**

- (xxi) As it may be delegated from time to time by the Mayor or Council.

## **C. GENERAL**

### **ADMINISTRATIVE DELEGATIONS**

**DIRECTOR MANAGEMENT  
SERVICES/CFO**

**DIRECTOR COMMUNITY  
SERVICES**

The following proposed general delegations are informed by legislation, Council policies, duties, practice and bylaws:

## **HUMAN RESOURCES**

1. The power to utilise an official in another capacity.
2. The power to withhold an official's annual salary increment.
3. The power to accept an official's written notice of termination of employment.
4. The power to instruct an official to temporarily report for duty outside his or her normal working hours.
5. The power to approve the vacation, sick and special leave of an official.
6. The power to cancel, postpone or interrupt an official's leave of absence.
7. The power to approve leave of absence (vacation leave) without remuneration.
8. The power to refuse an application for sick leave, vacation and special leave.
9. The power to compel an official to take sick leave.
10. The power to approve maternity leave for female officials and paternity leave for male officials.
11. The power to approve study and examination leave in accordance with Council policies and applicable conditions of service.
12. The power to approve overtime.
13. The power to approve the notch increment and merit increments in accordance with approved Council policies.
14. The power to transfer an official to a post subject to Municipal policies.
15. The power to institute disciplinary proceedings in accordance with Municipal policies and conditions of service.
16. The power to authorise investigations into allegations of misconduct
17. The power to in consultation with Accounting Officer and or Director Management Services/CFO give mandates in respect of hearings,

arbitrations and mediation.

18. The power to authorise the filling of vacancies in accordance with the applicable municipal policies.
19. The power to authorise the payment of locomotion allowances subject to municipal policies and applicable conditions of service.
20. The power to handle grievances emanating from a Department in accordance with applicable Municipal policies and conditions of service.
21. The power to accept notice of resignation and the retraction thereof.
22. The power to approve the performance of standby duties and where applicable, the payment of standby allowance.

### **MEDICAL**

23. The power to instruct an official to submit a medical report.
24. The power to authorise the medical examination of officials claiming damages from the Municipality arising from bodily injuries on duty

### **FINANCE**

25. The power to authorise payment or cancellation of an acting allowance to officials from the levels below a Manager in accordance with approved municipal policies.
26. The power to approve the payment or cancellation of payment of telephone, transport, and housing or cell phone allowance to employees in Department in accordance with approved municipal policies.
27. The power to approve payments pertaining to the Department.
28. The power to authorise the payment of the medical or funeral expenses of an official who sustains an injury or dies as a result of an accident arising out of or in the course of employment or as a result of an illness contracted in the course of employment, in accordance with municipal policies.
29. The power to authorise the expense in respect of wreath for an individual or official, in accordance with municipal policies.
30. The power to recommend the transfer of funds within expenditure groups in the operating budget in accordance with the approved municipal policy.
31. The power to recommend the transfer for funds within the expenditure groups in the capital budget in accordance with the approved Municipal

policy.

### **ENFORCEMENT OF STATUTORY OBLIGATIONS**

32. The power to take all the necessary action to enforce statutory provisions.
33. The power to accept conditions imposed by statutory agencies.
34. The power to exercise all powers in terms of the bylaws falling within the ambit of the competencies of the Directorate, including the granting of any permission that may be required and the issuing of any notice in accordance with the bylaws whereby a person is summoned to comply.
35. The power to exercise all applicable powers in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), and the General Machinery Regulations.
36. The power to authenticate any order, notice or other document requiring authentication.
37. The power to ensure that the Municipality complies with all its obligations in terms of the Promotion of Access to information Act, 2 of 2002, as well as the amendments thereto.

### **OFFICIAL VEHICLES**

38. The power to approve the use of official vehicles of the Municipality outside the municipal area.

### **ATTENDANCE OF CONFERENCE, WORKSHOP AND SEMINAR**

39. The power to approve in terms of the council policy, the attendance of conferences, workshops, seminars, symposium or training sessions by employees (excluding international conferences, congresses, symposium, training sessions and visits), provided that the expenditure per individual per occasion, and there is sufficient budget to cover accommodation and traveling costs.

### **REPORTS**

40. The power to approve reports that are to be brought before the Portfolio Committee.

## **PROCUREMENT DELEGATIONS**

- 41 The power to approve procurement of goods and services from R0.00 but not exceeding R 200,000.

Have the power to sub-delegate to managers in the terms of the councils supply chain management policy to approve procurement of goods and services from R0 but not exceeding R30000 the following managers

- 1 Head of Roads
- 2 Head of Fire and Disaster Management
- 3 Head of Supply Chain Management
- 4 Head of Internal Audit
- 5 Head Performance Management
- 6 Head of Municipal Health
- 7 Head of Resorts
- 8 Head of Environmental Management
- 9 Head of IDP
- 10 Head Support Services
- 11 Head Income and Expenditure
- 12 Head of Financial Services

The Director Community Services have the power to delegate to the Head of Roads to approve all requisitions up to the amount not exceeding R200000 (VAT Inclusive) subject the SCM policy and approval of the Provincial Roads Department in terms of the approved agreement. (SDA)

## **TENDERS**

42. The power to approve applications to advertise for tenders within a Department

## **D. SPECIFIC DELEGATIONS**

### **1. DIRECTOR MANAGEMENT SERVICES/CFO**



## **Legal**

The following powers are hereby delegated to the Director Management Services/CFO, which powers he/she may from time to time exercise in consultation with the Municipal Manager:

1. The power to draft and implement the Municipality's Performance Management System and to take all steps necessary to implement same
2. The power to draft, and recommend, the Integrated Development Plan and to take all steps necessary to implement same.
3. The power to draft appropriate bylaws for submission to Council.
4. The power to enforce bylaws.
5. The power to establish and maintain a website for the Municipality.
6. The power to issue and/or make media statements on behalf of the Municipality; and/or to authorize a designate official to issue and/or make same.
7. The power to take all steps that may be necessary on behalf of the Municipality to comply with the provisions of the Promotion of Administrative Justice Act 3 of 2000.
8. The power to authorize all forensic investigations in relation to the alleged fraud, corruption or criminal activity, maladministration and/or negligence on the part of any Municipal employee.
9. The power to pursue, facilitate and/or represent the Municipality in respect of any appropriate disciplinary, criminal, civil and or related proceedings flowing from any forensic investigations in paragraph 8 above.
10. The power, to subject to any relevant legislation have access to, to copy and/or to seize any register, file, document, account, minutes and/or other records whether physical or electronic which may be a subject of a forensic investigation.
11. The power to have access and be able to question any Municipal employee as to his/her official activities, and if necessary, summon any employee, agent, contractor, supplier and/or service provider in such regard.
12. The power to institute or defend claims and actions in the name of or against the Municipality:
  - (a) to on behalf of the Municipality, accept payment, settle and do

everything deemed necessary to finalize it in the best interest of the Municipality;

- (b) to appoint attorneys and Counsel to institute oppose or defend claims and do everything deemed necessary to finalise a claim in the best interest of the municipality;
  - (c) to in the event that the defendant/ respondent are in default in respect of a claim, to apply and execute the judgment or Order of court; and
  - (d) to, at his or her discretion, deny, pay or settle any claim, action instituted against the Municipality.
13. The power to obtain a legal opinion from the attorneys of the Municipality.
  14. The power to instruct attorneys to enter appearance on behalf of the Municipality in any matter instituted by or against the Municipality and to sign all necessary documents for this purpose, and to authorise the briefing of advocates.
  15. The power to instruct attorneys to collect any monies owed to the Municipality.
  16. The power to appear before a notary to execute any document or to appoint any other person to appear before the notary on behalf of the Municipality
  17. The power to appoint a person to serve legal documents.
  18. The power to conduct any necessary action in any matter instituted by or against the Municipality, including the signature of the prescribed powers of attorney, affidavits and other documents in order to conduct the matter to its end.
  19. The power to institute or defend any legal action in a competent court in order to protect the interests of the Municipality.
  20. The power to conduct all necessary action, including the procurement of legal aid in a competent court to enforce all statutory provisions.
  21. The power to institute a claim against an insolvent estate or company in liquidation for monies owed to the Municipality.
  22. The power to appoint an external chair person in a disciplinary tribunal and disciplinary appeal tribunal.
  23. The power to appoint an external legal practitioner to represent the

#### Municipality in mediations and arbitrations

24. The power to sign resolutions in matters before the High Court where the amount involved is less than **R50 000.00**.

#### **Finance**

25. The power to prepare a draft budget for approval by Council.
26. The power to take all steps necessary to ensure that the financial and other resources of the Municipality are utilised effectively, efficiently and economically.
27. The power to take all steps necessary to ensure that irregular expenditure, fruitless and wasteful expenditure are prevented.
28. The power to ensure that all revenue due to the Municipality is collected.
29. The power to invest funds on behalf of the Municipality in the best interest of the Municipality.
30. The power to take all steps necessary to safeguard assets.
31. The power to open the Municipality's bank account as contemplated in section 7 8, and 10 of the MFMA.
32. The power to disburse funds and approve expenditure on behalf of the Municipality.
33. The power to implement and take all steps necessary in terms of the Municipality's Credit Collection Bylaw, including inter alia, in consultation with the Accounting Officer and defending actions; and the instructing of any other form of collection agency which may be necessary to ensure compliance with same.
34. The power to take all steps that may be necessary on behalf of the Municipality to comply with the National Credit Act, 34 of 2005.
35. The power to take all steps that may be necessary on behalf of the Municipality to comply with the Municipal Property Rates Act 6 of 2004.
36. The power to effect payment on any accounts lawfully due by the Municipality and to authorise such officials as deemed necessary from time to time.
37. The power to disconnect or restrict electricity supplies and the

supply of water to consumers where such consumers have failed to pay any sum due to the Municipality in terms of the relevant policies of Council and or bylaws.

38. The power to arrange all risk insurance cover in respect of any asset which to safeguard the Municipality s' interest.
39. The power to take all steps that may be necessary on behalf of the Municipality to comply with the Municipal Finance Management 56 of 2003.

### **Human Resources**

41. The power to terminate after proper notice the services of a temporary employee.
42. The power to enter into and sign apprenticeship, learner-ship or similar contracts in terms of any schemes which Council has approved, in respect of employees on behalf of Council.
43. The power to authorize officials to act in the stead of officials who are legitimately absent or officials who have to fill vacancies temporarily on a higher level than their own in terms of Council policy and authorize the payment thereof.
44. The power to negotiate and finalize, subject to Council policy, the removal expenses and temporary accommodation costs to newly appointed staff residing outside the jurisdictional areas of the Municipality subject to applicable Council policy
45. The power to authorize in accordance with Council policy, the payment of travelling and subsistence allowance of applicants for vacant Council positions
46. The power to authorize study bursaries for officials in accordance with any resolution of the Council or applicable legislation or policy of the Council
47. The power to authorize refunds of subsistence and travelling costs actually incurred by officials in the course of their duties at the scale as provided for in the travel and subsistence policy of Council.
48. The power to recommend the approval of an organizational structure.

49. The power to issue certificates of services in terms of the relevant Council policy
50. The power to approve, in accordance with Council policy, an application by an employee for the payment of a housing subsidy in respect of a dwelling unit.
51. The power to make a request to a pension fund of which an employee is a member, subject to the Conditions of service of Council and the rules of the relevant pension fund/provident fund, for a medical examination of that employee, where the employees' health has deteriorated to such an extent that he/she is unable to fulfill the duties assigned to his/her post.
52. The power to approve training schemes consistent with an approved workplace skills plan, where applicable subject to Council Policy.
53. The power to appoint, subject to the Supply Chain Management Policy of Council, suitable personnel agencies and manage their contracts to protect the interests of Council and to pay the costs in connection therewith.
54. The power to let municipal offices, rooms or theatres at the tariffs, rental and conditions approved by Council.
55. The power to enter into all agreements necessary for the installation of telephones and faxes for official purposes in premises owned or controlled by the Municipality and to agree to any application by a tenant of the Council to the installation of telephones and faxes in premises which he or she occupies.
56. The power to implement and maintain, subject to such written instructions that Council or the Municipal Manager may issue from time to time, a system of proper record and safekeeping of all resolutions adopted by the Council, including resolutions adopted and/or decisions taken by the Executive Committee and all other committees of the Council.
57. The power to approve job descriptions prior to evaluation by the Bargaining Council for the Local Government undertaking.
58. The power to approve special paid leave for union activities in collaboration with the relevant Director in terms of the Councils' policy

and Labour Relations Act imperatives.

59. The power to, in consultation with the Directors of the relevant Department, determine whether an employee has successfully completed his/her probation.
60. The power to terminate an employees' service due to pensionable age as determined by the regulations of the relevant pension fund.
61. The power to authorize the use of Council property or goods, or the removal of such from the Council's premises for performance of official duties.

# **MANAGER: PUBLIC HEALTH**

The following powers are hereby delegated to the Manager: Public Health, which powers he may from time to time exercise in consultation with the Municipal Manager:

1. The power to provide for measures for the promotion of the health in general, of the inhabitants of the Municipality in line with Council Policy.
2. The power to define and recommend the duties, powers and responsibility of the health officers in terms of the Health Act 63 of 1977, including bylaws promulgated there-under.
3. The power to administer and enforce on behalf of Council the relevant provisions of the Refuse Removal Regulations and to institute prosecutions should the need arise.
4. The power to enforce the relevant provisions of the following Acts, including all the Regulations and Bylaws promulgated there-under and to institute prosecution should the need arise; inter alia:
  - 4.1 The National Health Act 61 of 2003 as amended and included all regulations related to Municipal Health Services
  - 4.2 The Medical, Dental and Supplementary 56 Act of 1974.
  - 4.3 Health Professions Act 56 of 1974.
  - 4.4 The Pharmacy Act 5 of 1974.
  - 4.5 The Medicines and Related Substances Act 101 of 1965.
  - 4.6 The Sterilisation Act 44 of 1998.
  - 4.7 The Choice on Termination of Pregnancy Act 92 of 1996.
  - 4.8 The Health Standards in Traditional Circumcision Act 6 of 2001.
  - 4.9 The National Health Laboratory Services Act 37 of 2000.
  - 4.10 The Hazardous Substances Act 15 of 1973.
  - 4.11 The National Road Traffic Act 93 of 1996.
  - 4.12 The Mines and Works Act 50 of 1956.
  - 4.13 The Mineral and Petroleum Resources Development Act 28 of 2002.
  - 4.14 The National Environmental Management Act 107 of 1998.



- 4.15 The National Environmental Management Air Quality Act 39 of 2004 including all related standards and regulations
- 4.16 The Fire Brigade Ordinance 14 of 1978.
- 1977 4.17 The National Building Regulations and Building Standards Act 103 of 1977
- 4.18 The National Veld and Forest Fire Act 101 of 1998
- 4.19 SABS 0400 (on the application of the National Building Regulation).
- 4.20 The Foodstuffs, Cosmetics and Disinfectant Act 54 of 1972as amended and included all regulations related to this Act
- 4.21 The Atmospheric Pollution Prevention Act 45 of 1945.
- 4.22 The National Water Act 40 of 1998.
- 4.23 The Meat Safety Act 40 of 2000.
- 4.24 The Tobacco Control Act 83 of 1993
- 4.25 The public health aspect of:
- (i) The Children's Act 38 of 2005.
  - (ii)The child Care Act 74 of 1983.
  - (iii) The Mental Health Care Act 17 of 2002.
  - (iv) The Older Persons Act 13 of 2006.
  - (v) The prevention and Treatment of Drug Dependency Act 20 of 1992
  - (vi) The Disaster Management Act 57 of 2002.
- 4.26 National Health Act: Norms and Standards
- 4.27 National Health Policy
- 4.28 National Environmental Management: Waste Act 2008, 59 of 2008
- 4.29 Nema Section 30: Control of Emergency Incidents
- 4.30 Food stuff, Cosmetics and Disinfectant Act – Regulation relating to Inspections and Investigations GNR 1128 of 24 May 1991
- 4.31 Regulation 328 of 20 April 2007 – Relating to the powers and duties of Inspectors and Analysts

- 4.32 Regulation 247 on the Food stuffs, cosmetics and disinfectant
- 4.33 National Health Act – Regulation relating to the management of human remains and the rendering of Forensic Pathology Service
- 4.34 Overberg District Municipal Air Quality Management By-law - 2015
- 4.35 Overberg District Municipality Municipal Health Service By-Law – 2015
- 4.36 Water Quality Monitoring – SANA241 as amended

# **MANAGER: LOCAL ECONOMIC DEVELOPMENT AND TOURISM**

The following powers are hereby delegated to the Manager: Local Economic Development and Tourism, which powers he or she may from time to time exercise in consultation with the Municipal Manager:

- 1 The power to let and cancel the letting of facilities at resorts, including the marketing and administration thereof.
- 2 The power to let to persons or organizations equipment at resorts (i.e. chairs, deckchairs, trestle tables) at the prescribed tariff approved by Council.
- 3 The power to approve the erection of any notice boards or warning signs on Property falling under the control of the Directorate.
- 4 The power to subject to the Supply Chain Management Policy, purchase of material.
- 5 The power to let or cancel the letting of amenities at the resorts (halls).
- 6 The power to approve or refuse application for the hire of dwelling units at resorts and other recreational facilities under the control of the Directorate

# **DIRECTOR COMMUNITY SERVICES**

The following powers are hereby delegated to the Director: Community Services, which powers he may from time to time exercise in consultation with the Municipal Manager:

1. The power to grant approval for the attendance of training courses by Fire Fighting staff, as well as other personnel to whom it may apply in terms of Council policy.
3. The power to exercise any powers and perform any duties delegated or assigned in terms of Section 14 of the Disaster Management Act 57 of 2002, or any relevant provisions of the Act.
15. The power to exercise any powers and perform any duties delegated or assigned in terms of the Fire Brigade Act 99 of 1990 to enforce the provisions of the Act.
16. The power to approve, subject to the concurrence of the Director Community Services, applications for permission to install tanks and pumps or other delivery devices for the storage, sale or distribution of petrol or petroleum products.
17. The duty to perform and execute all powers, functions and duties in terms of the National Veld and Forest Fire Act of 1998 including but not limited to, training of staff regarding veld fire prevention, management and control and to prevent and fight veld fires in terms of this Act and any other relevant legislation
18. The power to protect Councils' assets and to take whatever action necessary to ensure the security of all municipal assets and personnel.
19. The power to oversee contract security and to provide protection.
20. The power to provide security at Council functions

**ANNEXURE A**

**DELEGATIONS**

**DELEGATION OF POWERS, FUNCTIONS AND RESPONSIBILITIES IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 56 OF 2003; LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 32 OF 2000; DIVISION OF REVENUE ACT AND OR ANY OTHER ACT: MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS AND OR ANY OTHER REGULATIONS BY THE ACCOUNTING OFFICER OF THE OVERBERG MUNICIPALITY TO THE (Insert the position of receiver of delegation) OF THE OVERBERG DISTRICT MUNICIPALITY AND FURTHER DELEGATION OF THOSE POWERS, FUNCTIONS AND RESPONSIBILITIES TO THE MANAGERS WITHIN THE (Insert department) IN THE MUNICIPALITY.**

By virtue of the authority vested in me in terms of section 79 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) read in conjunction with section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), I, ....., in my capacity as Municipal Manager of the Overberg District Municipality, hereby delegate the powers, functions and responsibilities, contemplated in the attached Annexure, to the Chief Financial Officer and authorise the Chief Financial Officer to sub-delegate these powers, functions and responsibilities to the specific managers within (Insert the name of department) in the municipality.

It should be noted that further sub-delegation by the specific managers responsible for their respective divisions within the budget and treasury office must only be done with my concurrence.

**GENERAL**

In the absence of a permanent incumbent in the post of Chief Financial Officer or any other post, the powers, function and duties shall be exercised by the official acting in a temporary capacity in the relevant post. It should be noted that the official acting in a temporary capacity in the relevant post will be equally accountable for the performance of the tasks attached to the post.

The powers, function and duties must be exercised according to current accepted policies and principles.

SIGNED AT ..... ON THIS ..... DAY OF ..... 20....

\_\_\_\_\_  
**ACCOUNTING OFFICER**  
**(delegating)**

**DATE:**

\_\_\_\_\_  
**(Insert name of person**

**DATE:**

**ANNEXURE B**

**SUB-DELEGATIONS**

**SUB-DELEGATION OF POWERS, FUNCTIONS AND DUTIES IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003; DIVISION OF REVENUE ACT; LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 AND OR ANY OTHER ACT; MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS AND OR ANY OTHER REGULATION DELEGATED BY THE (Insert Directorate name here) OF THE OVERBERG DISTRICT MUNICIPALITY TO THE MANAGER: (Insert position of person receiving delegation) WITHIN THE (Insert Department name) OF THE OVERBERG DISTRICT MUNICIPALITY.**

By virtue of the authority vested in me by section 82(1) of the Municipal Finance Management Act, 2003 (Act 56 of 2003) and section 59 of Municipal Systems Act (Act 32 of 2000 as amended, I, ....., in my capacity as (Insert directors position here) of the Overberg District Municipality, hereby sub-delegate the powers, functions and responsibilities to the incumbent of the position Manager: XXXXXXXX or the acting official of the indicated post. The incumbent of the position of Manager: XXXXXXXX must sub-delegate to lower level officials, but only with my concurrence.

\_\_\_\_\_  
**(Type the name of person delegating)**

\_\_\_\_\_  
**(Name of position)**

**DATE:**

**DATE:**