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LOCAL GOVERNMENT ACT 1995

CITY OF SWAN

**STANDING ORDERS
LOCAL LAW 2010**

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LOCAL GOVERNMENT ACT 1995

CITY OF SWAN

STANDING ORDERS LOCAL LAW 2010

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Swan resolved on 2 March 2011 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This Local Law may be cited as the *City of Swan Standing Orders Local Law 2010*.

1.2 Commencement

This Local Law comes into operation 14 days after the date of its publication in the *Government Gazette*.

Note: *In order to assist the reader, and to provide a complete picture of relevant legislation, extracts from the Local Government Act and Local Government (Administration) Regulations are shown boxed and in italics. This note and those extracts are for explanatory purposes only and do not form part of this Local Law.*

1.3 Repeal

The City of Swan Local Law Relating to Standing Orders 1999 published in the *Government Gazette* of Western Australia on 5 January 2000, is repealed.

1.4 Purpose and effect

- (1) The purpose of this Local Law is to provide the rules for the conduct of meetings of the Council, Committees and electors.
- (2) The effect of this Local Law is intended to result in—
 - (a) the orderly and effective conduct of meetings;
 - (b) greater community understanding of the meeting process;
 - (c) better decision-making by the City; and
 - (d) better outcomes from decisions made.

1.5 Application

All meetings of the Council, Committees and the electors are to be conducted in accordance with the Act, the Regulations and this local law.

1.6 Interpretation

- (1) In this Local Law, unless the contrary intention appears—
 - “**Act**” means the *Local Government Act 1995*;
 - “**CEO**” means the Chief Executive Officer of the City;
 - “**City**” means the City of Swan;
 - “**committee**” means a committee established by council in accordance with the Act;
 - “**councillor**” means a person who holds the office of councillor on the council;
 - “**district**” means the local government district of the City of Swan;
 - “**meeting**” means a meeting of the council or a committee;
 - “**member**” where used in reference to council means a councillor and where used in reference to a committee, means a member of that committee, and where used generally means a member of the council or a member of a committee as the context requires;
 - “**ordinary meeting**” means a meeting convened in accordance with the Act at such place and at such time as the council, from time to time, appoints for the transaction of ordinary business of the council or of any committee;
 - “**presiding person**” means the Mayor or other person presiding at a meeting of the council or a committee;
 - “**Regulations**” means the *Local Government (Administration) Regulations 1996*;

“**Mayor**” means the Mayor of the City and includes the Deputy Mayor when acting as the Mayor in accordance with the Act;

“**Rules of Conduct Regulations**” means the *Local Government (Rules of Conduct) Regulations 2007*;

“**section**” means a section of the Act and is “s.” in its abbreviated form;

“**special majority**” has the meaning given to it by the Act;

“**special meeting**” means a meeting convened in accordance with the Act to consider special business of the Council or of any committee, the nature of which is to be specified in the notice convening the meeting;

“**standing orders**” means the meeting procedures and/or rules on the conduct and behaviour of persons at a meeting of the Council, Committee or electors; and

“**this Local Law**” means the City of Swan Standing Orders Local Law 2010.

(2) In this Local Law, terms have the meanings given to them in the Act and Regulations. In the case of conflict between any provision of this Local Law and any provision of the Act or Regulations, the order of precedence is the Act, the Regulations, and lastly the interpretations in this Local Law.

(3) This Local Law shall apply to committees except the requirement limiting the number of times a member may speak (*see clause 7.8*) and the need to rise to address the person presiding (*see clause 6.4*).

PART 2—MEETINGS AND HOW CALLED

2.1 Meetings of the Council and Committees

(1) Meetings of council and committees of council shall be either ordinary meetings or special meetings.

(2) Subject to the provisions of the Act, the Regulations and this Local Law relating to the revocation of or change to a decision, no business is to be transacted at a special meeting, other than that for the purpose of which the special meeting has been called.

2.2 Calling of Council meetings

(1) The calling of a council meeting is to be in accordance with the Act.

(2) If a special meeting of the council is to be open to the public, and if local public notice in accordance with section 1.7 of the Act cannot practically be given, the CEO is to give public notice of the date, time, place and purpose of the meeting by the most effective means possible, including the City’s website, and if practicable, by posting notice of those details in the public area of the administrative offices of the City, and if possible in the City’s public libraries, as close as possible to the time at which notice of the meeting is given to members.

2.3 Calling of Committee meetings

An ordinary or special meeting of a committee is to be held—

(a) if called for by—

(i) the Mayor; or

(ii) the presiding person of the committee; or

(iii) if the committee is comprised of 3 members, any 2 members of that committee; or

(iv) if the committee is comprised of more than 3 members, then any 3 members of that committee,

in a notice to the CEO setting out the time, date, place and purpose of the proposed meeting;
or

(b) if so decided by the council or the committee.

2.4 Convening ordinary and special meetings of Council

The convening of ordinary and special meetings of council is to be in accordance with the Act.

2.5 Convening ordinary and special meetings of Committees

(1) The CEO is to convene an ordinary meeting of a committee, by giving each member of the committee at least 72 hours notice of the date, time and place of the meeting and an agenda for the meeting by facsimile, letter or electronic mail.

(2) The CEO is to convene a special meeting of a committee by giving each member of the committee notice, before the meeting, of the date, time, place and purpose of the meeting.

(3) In convening a special meeting of a committee, there is no minimum period of notice to be given and notice can be given by telephone, facsimile, letter, electronic mail or orally in person.

2.6 Notice of meeting

Failure of any member to receive a notice convening a meeting shall not affect the validity of the meeting, so long as all reasonable steps have been taken to give the notice.

2.7 Notice of adjournment

(1) When a meeting is adjourned to a day and hour other than the next ordinary meeting date, notice of the adjourned meeting shall, if time permits, be given to each member.

(2) At the resumption of an adjourned meeting, no business shall be transacted other than such business as remains outstanding on the notice paper of the adjourned meeting.

PART 3—QUORUM FOR MEETINGS AND ADJOURNMENT WHEN NO QUORUM**3.1 Quorum for meetings**

The requirements for a quorum at a meeting are as prescribed in the Act and Regulations.

3.2 Quorum not present during meeting

(1) If at any time during the course of a meeting a quorum is not present, the presiding person, upon becoming aware of that fact, shall adjourn the proceedings for a period not exceeding 30 minutes.

(2) If a quorum is not present at the expiration of the suspension period in subclause (1), the person presiding may—

- (a) adjourn the meeting to a time and date to be set by the presiding person, which may be the same day or another day, or
- (b) may cancel the meeting.

3.3 Debate on motion to be resumed

Where the debate on any motion is interrupted due to the adjournment of a meeting under subclauses 3.2(1) or (2), that debate is to be resumed at the next meeting at the point at which it was so interrupted.

3.4 Names to be recorded

At any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned or cancelled under subclause 3.2(2);
the names of the members then present are to be recorded.

PART 4—PUBLIC PARTICIPATION**4.1 Public participation**

(1) Members of the public are welcome to attend all meetings of council or a committee where there has been no resolution to close the meeting to the public. A copy of the agenda of an ordinary meeting and, where time permits, a special meeting, is to be made available in the local government's libraries and at the administration centre prior to the meeting.

(2) Parts of the agenda may be marked "Confidential". The public will not have access to this part of the agenda or related documents.

(3) Subclause 8.5(1) of this Local Law allows for a resolution to be passed that a meeting be closed to members of the public to discuss any matter identified in the Act that may allow the meeting to be closed to the public. If that occurs members of the public will be asked to leave the room as provided in subclause 8.5(2).

(4) Members of the public are not permitted to interrupt or enter into any conversation during a meeting except in accordance with subclause (5).

(5) (a) At the beginning of each meeting, members of the public will have the opportunity to place questions before the Council or committee in accordance the Regulations.

(b) A member of the public who raises a question during question time is to provide his or her name and address.

(c) A question may be taken on notice by the council or committee for later response.

(d) When a question is taken on notice under subclause (5)(c) the CEO is to ensure that a response is given to the member of the public in writing, a copy is provided to councillors and the response placed in the agenda of a subsequent meeting.

(6) A committee may resolve by simple majority, to invite a member of the public in attendance to make a brief comment in relation to a matter on the agenda of the meeting, either during question time held under subclause (5), or when the matter is discussed during the course of the meeting.

(7) When the committee resolves in the terms of subclause (6) the presiding person is to determine the person or number of persons who may comment and the duration of any comment and may extend the time allowed for any comment.

(8) A committee may resolve by simple majority to invite a member of the council who is not a member of the committee to participate in the debate on all or any part of the agenda of the meeting.

4.2 Inspection entitlement

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

4.3 Confidentiality of information withheld

(1) Information withheld by the CEO from members of the public under Regulation 14(2) of the Regulations, is to be—

(a) Identified in the agenda of a Council or committee meeting under the item "Confidential Items"; and

(b) Marked "confidential" in the agenda.

(2) A member of the Council or a committee or an employee of the Council in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

PART 5—BUSINESS AT MEETING**5.1 Business to be specified in notice**

(1) No business is to be transacted at any meeting other than for the purpose specified in the notice relating to the meeting, except—

- (a) matters that the Act permits to be dealt with without notice; and
- (b) matters that this Local Law expressly permits to be dealt with without notice.

(2) Without limiting the generality of subclause (1), no business is to be transacted—

- (a) at an ordinary meeting of the council other than that specified in the agenda, without the approval of the presiding member or a decision of the council;
- (b) at a special meeting of the council other than that given in the notice as the purpose of the meeting;
- (c) at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the presiding member or a decision of the committee; and
- (d) at an adjourned meeting of the council or a committee other than that—
 - (i) specified in the notice of the meeting which had been adjourned; and
 - (ii) which remains unresolved,

except in the case of an adjournment to the next ordinary meeting of the council or the committee, when the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

5.2 Order of business at an ordinary meeting

(1) Disclosure of Interests Notified in Writing

If a member has disclosed an interest in a written notice given to the CEO before a meeting, then before the meeting—

- (a) the CEO is to cause the notice to be given to the presiding person; and
- (b) the presiding person is to bring the notice to the attention of the persons who attend the meeting.

(2) The Order of Business at any ordinary meeting of council or a committee shall be as decided by council or the committee from time to time and unless otherwise decided by Council or the committee at a meeting, shall be as near as practicable to the following—

1. Opening and Announcement of Visitors;
2. Disclaimer (read aloud by presiding member);
3. Attendance and Apologies;
4. Leave of Absence;
5. Answers to Questions from the Public Which Were Taken on Notice;
6. Councillors' and Employees' Disclosures of Financial Interest and Interests Affecting impartiality;
7. Public Question Time;
 - 7.1 Questions relating to reports contained in the agenda,
 - 7.1.1 Questions of Which Due Notice Has Been Given,
 - 7.1.2 Questions of Which Due Notice Has Not Been Given,
 - 7.2 Other questions
 - 7.2.1 Questions of Which Due Notice Has Been Given,
 - 7.2.2 Questions of Which Due Notice Has Not Been Given,
8. Public Statement Time;
9. Petitions, Presentations and Deputations;
 - 9.1 Petitions,
 - 9.2 Presentations,
 - 9.3 Deputations;
10. Receiving Minutes of Committee Meetings;
11. Confirmation of Minutes;
12. Announcements by the Presiding Person;
13. Declarations of Due Consideration;
14. Members' Questions of Which Due Notice Has Been Given;
15. Members' Questions of Which Due Notice Has Not Been Given;
16. Business Left Over From Previous Meeting;
17. Reports by the CEO and Executive Officers;
18. Adoption of Recommendations Contained in Items Not Withdrawn;
19. Urgent Business;
20. Motions of Which Previous Notice Has Been Given;

21. Notices of Motion Given For Consideration at The Following Meeting if Given During The Meeting;
22. Confidential Business;
23. Date, Time and Place of the Next Meeting;
24. Closure of the Meeting.

(3) Notwithstanding subclause (2), the CEO may include on the agenda of a council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.

5.3 Public question time

(1) A member of the public who raises a question during Public Question Time is to state his or her name and address before commencing the question.

(2) In putting any question, no argument or expression of opinion is to be used or offered nor any facts stated except those necessary to explain the question.

(3) A question may be taken on notice by the council or committee for later response if it seems to the presiding person appropriate to do so.

(4) When a question has taken on notice under subclause (3), a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next ordinary meeting of the council or committee, as the case requires.

5.4 Petitions

A petition in order to be effective, is to—

- (a) be addressed to the Mayor;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and the *Local Government (Constitution) Regulations 1996* if it is—
 - (i) a proposal to change the method of filling the office of Mayor;
 - (ii) a proposal to create a new district or the boundaries of the City;
 - (ii) a request for a poll on a recommended amalgamation; or
 - (iv) a submission about changes to wards, the name of the district, or a ward, or the number of councillors for a district or a ward.

5.5 Presentations to Council

(1) Unless otherwise decided by a simple majority of the council, the council is not to receive an oral presentation at a council meeting.

(2) Any request for an oral presentation must be made in writing to the CEO in sufficient time before the meeting at which the matter is to be considered, to allow the presentation to be received at a council briefing session before the meeting.

5.6 Deputations

(1) A deputation purely for ceremonial or civic purposes can be received at a Council Meeting without complying with the other provisions of this clause.

(2) A deputation wishing to be received by the council or a committee is to apply in writing to the CEO who is to forward the written request to the Mayor, or the presiding member as the case may be, at least 48 hours prior to the commencement of the meeting.

(3) The Mayor, or the presiding member as the case may be, may either approve the request, in which event the CEO is to invite the deputation to attend the meeting of the council or committee as the case may be, or may instruct the CEO to refer the request to the council or committee to decide by simple majority whether or not to receive the deputation.

(4) A deputation invited to attend a Council or committee meeting—

- (a) is not to exceed 5 persons, only 2 of whom subject to subclause (5) may address the council or committee;
- (b) is not to address the council or committee for a period exceeding 10 minutes in total without the agreement of the council or the committee as the case requires;
- (c) may by decision of the presiding member be restricted to a presentation time of less than 10 minutes if the pressure of business for that meeting so requires.

(5) Members of the council or committee may ask a questions or questions of members of the deputation and any member of the deputation may respond to any such question.

(6) Any matter which is the subject of a deputation to the council or a committee is not to be decided by the council or that committee until the deputation has completed its presentation.

(7) The Mayor in the case of a request to attend a council meeting or the presiding person in the case of a request to attend a committee, may decide and direct the CEO that a deputation should be received at a council briefing session in any case where the request for the deputation is received prior to the briefing session.

5.7 Confirmation of minutes

(1) On considering the minutes of a previous meeting a question of accuracy of those minutes arising under subclause (2) is permitted.

(2) If a member identifies an inaccuracy in the minutes, then the member is to—

- (a) state the item or items with which the member is dissatisfied;
- (b) identify the inaccuracy with precision; and
- (c) propose a motion clearly outlining the alternative wording to amend the minutes

5.8 Announcements by the Presiding Person

(1) At any meeting of the council or a committee, the presiding person may announce or raise any matter of interest or relevance or the business of the council or committee, or propose a change to the order of business.

(2) Any member may move that a change in order of business proposed by the presiding person not be accepted, and if the motion is carried by a majority of members present, the proposed change in order is not to take place.

5.9 Declarations of due consideration

Any member who is not familiar with the substance of any report or minute or other information provided for consideration at a council or committee meeting is to declare that fact at the time declarations of due consideration are called for in the order of business at the meeting, or otherwise before the meeting considers the matter. In the event that any member makes such a declaration, the relevant matter is to be stood down for later consideration at that meeting so as to allow an opportunity for the member making the declaration to become familiar with the relevant report or minutes or other information. If the delay in consideration of the matter has not allowed sufficient time for the member to give due consideration to the matter, unless the member satisfies the presiding person that he or she can pass an informed vote, the member should leave the chamber before the matter is put to the vote.

5.10 Questions by Members of which due notice has been given

(1) A question on notice is to be given by a member in writing to the CEO at least 4 clear working days before the meeting at which it is to be raised.

(2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.

(3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the presiding person.

5.11 Urgent business

(1) A member may move a motion involving urgent business that is not included in the agenda for that meeting provided that—

- (a) the person who is the presiding person has first consented to the business being raised;
- (b) the urgency of the business is such that the business cannot await inclusion in the agenda for the next ordinary meeting; and
- (c) if the business was to be deferred to the next ordinary meeting, such delay could have legal or financial implications for the City.

(2) If at an ordinary meeting a member objects that a motion introduced as urgent business and moved without notice does not deal with urgent ordinary business within the scope of subclause (1) above, the motion shall be of no effect unless it is agreed to at the meeting by an absolute majority of the members.

5.12 Motions of which previous notice has been given

(1) Unless the Act, the Regulations or this Local Law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.

(2) A notice of motion under subclause (1) is to be given at least 4 clear working days before the meeting at which the notice of motion is to be moved.

(3) At the time of giving the notice of motion, the member must also provide a written commentary in the nature of a report that supports the purpose of the motion to assist the responsible employee in reporting the matter to council.

(4) A notice of motion is to relate to the good government of persons in the district.

(5) The CEO—

- (a) with the concurrence of the presiding person, may exclude from the notice paper any notice of motion deemed to be out of order; or
- (b) may on his or her own initiative make such amendments to the form but not to the substance thereof as will bring the notice of motion into proper form; and
- (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.

- (6) A motion of which notice has been given is to lapse unless—
- (a) the member who gave notice thereof, or some other authorised by him or her in writing, moves the motion when called on; or
 - (b) the council on a motion agrees to defer consideration of the motion to a later stage or date.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6), a notice of motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.13 Notices of motion

- (1) A member may bring forward at a meeting such business as that member wishes in the form of a motion, of which notice has been given either at the previous meeting, or at any time in writing to the CEO thereafter, being no less than 7 clear days before the meeting at which it is to be brought forward.
- (2) At the time of giving the notice of motion, the member must also provide a written commentary in the nature of a report that supports the purpose of the motion to assist the responsible employee in reporting the matter to council.
- (3) A notice of motion shall lapse unless the member who gave the notice thereof, or some other member authorised in writing by the member who gave the notice, is present to move the same when such motion is called on.

5.14 Confidential business

- (1) Every matter dealt with by, or brought before a meeting closed to the public shall be treated as confidential and shall not, without the authority of the meeting, be disclosed to any person other than the members or employees of the council (and in the case of employees—only so far as may be necessary for the performance of their duties), prior to the discussion of that matter in connection with a motion at a meeting held with open doors.
- (2) Information relating to matters to be dealt with while a meeting is closed to the public is to be marked by the CEO as confidential in the agenda and—
- (i) is then to be treated as confidential by persons in receipt of this information; and
 - (ii) is not without the authority of the council to be disclosed to any person other than the Mayor, members or the employees of the City to the extent necessary for the purpose of carrying out their duties.

PART 6—RULES OF DEBATE

6.1 Recording of proceedings prohibited

No person other than the CEO or an employee acting under the authority of the CEO is to use any electronic visual or vocal recording or transmitting device or instrument to record or transmit the proceedings of a meeting unless the person has been given permission to do so by the Mayor in the case of a council meeting or the presiding person of a committee as appropriate.

6.2 Seating of Members

- (1) Seating of members and layout of meeting rooms is as decided by the presiding person or a majority of member's present if the meeting so decides.
- (2) The Council at the first meeting held after election day may allot a position at the Council table to each member, and in that case members are to occupy those positions until such time as the order is changed under subclause (1) above.
- (3) If a distinguished visitor is present at a meeting of the council, the Mayor may invite the person to sit beside the Mayor, or at the council table.

6.3 Members to address the presiding person

At a council or a committee meeting a member moving a motion or amendment, or taking part in the discussion thereon, shall at all times address the presiding person.

6.4 Official titles to be used

At a meeting, a speaker when speaking or referring to the presiding person, a member or the chief executive officer, shall address them by their official titles of "Mayor", "Councillor", "Member" or "Chief Executive Officer", as the case may be. All other employees of the City shall be addressed by their position titles.

6.5 Order of speaking

If 2 or more members rise to speak at the same time, the presiding person shall decide the order of speaking.

6.6 Crossing the meeting room or leaving meeting

- (1) When the presiding person is putting a motion to the vote, no member shall walk out of or across the meeting room, nor shall any member, whilst any other member is speaking, pass between the speaker and the presiding person.
- (2) During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without making the presiding person aware of the fact in order to facilitate the recording in the minutes the facts of the time of entry or departure.

6.7 Continued irrelevance—unbecoming language—breach of order

The presiding person may call the attention of the meeting to continued irrelevance, tedious repetition, unbecoming language, or any breach of order on the part of a member and may direct such member, if speaking, to discontinue their speech and thereupon such member shall cease speaking and resume their seat. A member failing to comply with such a direction may be declared by the presiding person to be out of order so as to attract the operation of clause 9.13 of this Local Law.

6.8 Adverse reflection

No member of the council or a committee is to reflect adversely upon a decision of the council or any committee except on a motion that the decision be revoked or changed.

6.9 No adverse reflection on a Member or employee

(1) A member present at a meeting shall not reflect adversely upon the character or action of another member or employee, nor impute any improper motive to a member or employee, unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered.

(2) A member who uses any expression which in the opinion of the presiding person reflects adversely on the council or any member or employee of the City, shall when required by the presiding person unreservedly withdraw such expression and make a satisfactory apology to the presiding person, and if that member declines, or neglects to do so, the presiding person may declare the member to be in Continued Breach of Order and the member may be dealt with in accordance with clause 9.13.

6.10 Point of order

(1) A member who is addressing the presiding person shall not be interrupted except upon a point of order, in which event the member shall resume their seat until the member raising the point of order has been heard thereon and the point of order has been either upheld or rejected by the presiding person, whereupon the member so interrupted may, if permitted, proceed.

(2) A member rising to express a difference of opinion, or to contradict a speaker, shall not be recognised as raising a point of order.

6.11 Points of order—when valid

(1) The following are to be recognised as valid points of order—

- (a) that the discussion is of a matter not relevant to the matter then under consideration by the meeting;
- (b) that offensive or insulting language is being used;
- (c) that there has been an insinuation as to the character, morality, honesty, or motives of a member or employee;
- (d) drawing attention to a breach of this Local Law or of any other written law;
- (e) drawing attention to the breach of a Code of Conduct of the City.

(2) A member raising a point of order shall specify one of the grounds in subclause (1) and in the case of item (d) or (e) must state the provision of this Local Law, the other written law or the Code of Conduct believed to be breached.

6.12 Rulings by Presiding Person

The presiding person shall decide all questions of order and that decision shall be final unless a majority of members present at the meeting decide otherwise pursuant to clause 8.12.

6.13 Suspension of standing orders

(1) A member may, at any time, move that the operation of one or more of the standing orders or clauses be suspended.

(2) A member moving a motion under subclause (1) is to identify the clause or clauses containing the standing orders to be suspended, and state the reasons for the motion, but no other discussion is to take place.

(3) A motion under subclause (1) which is seconded and carried is to suspend the operation of the clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

PART 7—ORDER OF DEBATE**7.1 Order of call and conduct of Members during debate**

(1) The presiding person will call speakers to a substantive motion in the following order—

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) Speakers for and against the motion;
- (f) The mover takes right of reply, which closes debate.

(2) In the event of two or more members wishing to speak at the same time, the presiding person is to decide which member is entitled to be heard first. Notwithstanding any other provisions of the Local Law, that decision is not open to discussion or dissent.

(3) Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in this Local Law, the presiding person may take part in a discussion of any matter before the council or committee as the case may be.

(4) Any member moving a motion or amendment, or taking part in the discussion thereon, shall address the presiding person and may rise if the member so desires, or shall do so when requested by the presiding person except when prevented from so doing by sickness or physical disability. The council at any time may decide that all persons at meetings are as a general rule, to rise when speaking unless prevented by disability from doing so, and any such rule should continue to apply until the council decides otherwise.

(5) Every member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order, and is to avoid irrelevancy.

7.2 Motions or amendments

A member who wishes to propose an original motion or amendment shall state its substance before the member addresses the meeting thereon, and if so required by the presiding person, shall put the motion or amendment in writing.

7.3 Division of complicated motions

The presiding person may, or the meeting may on a motion carried without debate, order a complicated motion to be divided and put in the form of 2 or more motions.

7.4 Withdrawal of motion

A motion or amendment may be withdrawn by the mover and it shall not be competent for any member to speak upon that member's motion after the mover has withdrawn it.

7.5 Motions and amendments to be seconded

Unless otherwise required by other legislation, no motion or amendment shall be discussed or put to the vote of the meeting, unless it has been seconded.

7.6 Unopposed business

(1) Upon a motion being moved and seconded, the presiding person may ask the meeting if any member opposes it.

(2) If no member signifies opposition to the motion, the presiding person may declare the motion carried without debate and without taking a vote thereon.

(3) A motion carried under subclause (2) may be recorded in the minutes as a unanimous decision of the meeting.

(4) If a member signifies opposition to a motion, the motion is to be dealt with in accordance with clause 7.7.

(5) This clause does not apply to any motion or decision to revoke or change a decision that has been made at a Council or committee meeting. Any motion or decision is subject to the Regulations.

7.7 Determining a vote

(1) Subject to Clause 7.6—(Unopposed Business), the method of determining a vote shall be in accordance with the Act and every member of council or a committee who is present at a meeting of the council or a committee is to vote. The procedure is as set out below—

(a) The presiding person, in taking the vote on any motion, is to—

(i) put the motion first in the affirmative and then the negative;

(ii) determine whether the affirmative or the negative has the majority of votes; and

(iii) declare the result of the vote.

(b) The motion put under subclause (1) paragraph (a) may be put as often as is necessary to enable the presiding person to determine that the affirmative or the negative has the majority of votes.

(c) The result of voting is to be determined on the show of raised hands.

(d) Voting at a meeting is to be conducted so that no member's vote is secret except in the case of the filling of the office of Mayor or Deputy Mayor of the council, or the election of the presiding persons or deputy presiding persons for committees.

(2) The voting on a motion is to be taken only by the presiding person calling for a show of hands for the affirmative and then calling for a show of hands for the negative and no member may express a view or attempt to vote on the motion in any other way.

7.8 Member not to speak twice

(1) No member is to speak twice on the same motion, except by way of personal explanation, or in reply upon an original motion of which the member was the mover or an amendment last debated of which the member was the mover, or through the chair to ask a question concerning and relevant to the subject matter of the motion or amendment, of another member or employee present at the meeting.

(2) The council may, by resolution, suspend the operation of this clause during the debate of any motion.

(3) The presiding person shall, without waiting for the intervention from members of the meeting, call to order any member proceeding to speak a second time on the same motion, except where the member is otherwise authorised to do so.

7.9 Time limit of speeches

(1) A member shall not speak upon any motion or amendment or in reply for a period longer than 5 minutes without the consent of the meeting, which shall be signified without debate by a simple majority of members present.

(2) No extension under subclause (1) is to be for a period greater than 5 minutes.

7.10 No digression

A member shall not speak otherwise than upon, or digress from, the motion then before the meeting, except to make a personal explanation.

7.11 Personal explanation—when heard and ruling by Presiding Person

(1) A member wishing to make a personal explanation of matters referred to by any member then speaking, shall be entitled to be heard immediately, if the member then speaking consents at the time, but if the member who is speaking declines to give way, the explanation must be offered at the conclusion of that speech. Any member of the council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech that may have been misunderstood and shall not refer to matters not strictly necessary.

(2) The presiding person is to decide on the admissibility of a personal explanation in accordance with clause 11.1. The decision of the presiding person shall be final.

(3) The presiding person is to decide on the duration of a personal explanation provided the time is not to be longer than 5 minutes.

7.12 Speaking in reply

A member speaking in reply shall not introduce any new matter, but shall strictly confine the reply to answering previous speakers and shall speak in reply for no more than 3 minutes.

7.13 Members not to interrupt

No member is to interrupt another member whilst speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum; or
- (c) to make a personal explanation under clause 7.11.

7.14 No speech after certain events

(1) No member is to re-open discussion on any decision of the council or committee, except for the purpose of moving that the decision be revoked or altered.

(2) Without limiting the generality of subclause (1), no member is to speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the motion has been put if the mover declines to reply.

PART 8—PROCEDURAL MOTIONS**8.1 Motions and amendments to be determined without digression**

When a motion is under debate at a meeting, another motion shall not be received unless it be a motion authorised by the Act or this Local Law or one of a nature necessary for the proper observance of the Act or this Local Law.

8.2 Permissible formal motions during debate

(1) Whilst a motion is under debate, a member may move a procedural motion which, provided it is seconded, shall be dealt with immediately.

(2) Each of the following is a procedural motion for the purpose of this clause—

- (a) that the matter be referred back to committee;
- (b) that the motion be amended;
- (c) that the meeting proceed behind closed doors;
- (d) that the meeting be adjourned;
- (e) that the debate be adjourned;
- (f) that the matter be deferred;
- (g) that the motion be now put;
- (h) that the meeting proceed with the next business;
- (i) that the motion lie on the table;
- (j) that the ruling of the person presiding be disagreed with;
- (k) that the meeting be now closed.

(3) A member who has moved, seconded or spoken on the matter then before the meeting shall not move a procedural motion on that matter other than the motions referred to in subclause (2) paragraphs (a), (c) and (i).

8.3 That the matter be referred to Committee—when moved and how dealt with

(1) Where the matter before council is a recommendation from a committee of the council, any member may at the conclusion of the speech of any other member, move without notice that the matter be referred back to the committee and, on any such motion, the mover may speak for not more than 3 minutes, the seconder shall not speak other than to formally second and the presiding person of the Committee or in the absence of the presiding person, a member thereof, may speak for not more than 3 minutes, but no other debate shall be allowed.

(2) In the case of a committee of which no member of council present at the meeting is a member of the committee whose recommendation is the matter before council, the motion shall be put to the vote after the mover has spoken.

8.4 That the motion be amended—when valid, how dealt with and effect

(1) Every amendment is to be relevant to the motion, and is not to have the effect of negating the motion.

(2) As often as an amendment is lost, another amendment may be moved before the original motion is put to the vote. Where an amendment is carried, one further amendment to the original motion, as amended, and no more may be carried.

(3) In speaking to an amendment, a member may give notice of intention to move another amendment, subject to the constraint in subclause (2).

(4) Where an amendment is carried, the original motion, as now amended, shall for all purposes of subsequent debate be treated as the original motion.

8.5 That the meeting be closed to the public—when moved, how dealt with and effect

(1) A member may at the conclusion of a speech of any other member move without notice, for the purpose of dealing with any matter referred to in s.5.23(2) of the Act, that the meeting be closed to the public and on any such motion, the mover may speak for not more than 3 minutes, the seconder shall not speak other than to formally second and no other debate shall be allowed.

(2) Where a meeting resolves that the meeting or part of it be closed to members of the public, the following is to occur—

(a) the presiding person is to direct all persons other than the members and those persons who they require to assist them with the business, to leave the meeting room and every person is to comply with that direction immediately; and

(b) the meeting is closed to other members of the public until the meeting resolves to open the meeting to members of the public.

(3) A person who fails to leave the meeting room when so directed, under subclause (2) may, by order of the presiding person, be removed from the meeting room.

8.6 That the meeting be adjourned—when moved, how dealt with and effect

(1) A member may, at the conclusion of the speech of any other member or on the conclusion of any business, move without notice that the meeting be adjourned and that motion shall state a time and date to which the adjournment is to be made.

(2) On a motion to adjourn, the mover may speak for not more than 3 minutes, the seconder shall not speak other than to formally second and the mover of a motion (if any) which is then under debate, may speak for not more than 3 minutes, but no other debate shall be allowed.

(3) If any motion for adjournment of the meeting is negated, the subject then under consideration or the next matter on the notice paper shall be discussed before any subsequent motion for adjournment shall be entertained.

(4) If any motion for adjournment of the meeting is carried, the matter (if any) under debate when the decision for adjournment was made, will stand adjourned until the next meeting.

(5) On resuming debate on any matter from an adjourned meeting, the member who moved its adjournment shall be entitled to speak first.

(6) At the same sitting, no member may move or second more than one motion for the adjournment of the meeting.

(7) On a motion for adjournment of the meeting being carried, a record shall be taken of all those who have spoken on the matter under consideration at the time of the adjournment and they shall not be permitted to speak on any subsequent consideration of the same matter when the meeting is resumed, but this clause does not deprive a mover of the right of reply.

8.7 That the debate be adjourned—when moved, how dealt with and effect

(1) A member may, at the conclusion of a speech of any other member move, without notice, that the debate be adjourned to a later hour on the same day or to any other day.

(2) On a motion that a debate be adjourned, the mover may speak for not more than 5 minutes, the seconder shall not speak other than to formally second and no other debate shall be allowed, but if the matter then before the meeting is a recommendation from a standing committee, the presiding person of the committee concerned, or in the absence of the presiding member a member thereof, may speak for not more than 3 minutes.

(3) On resuming an adjourned debate, the member who moved its adjournment shall be entitled to speak first.

(4) At the same meeting no member shall move or second more than one motion for adjournment of the same debate.

(5) On a motion for the adjournment of a debate being carried, a record shall be taken of all those who have spoken on the matter under debate and they shall not be permitted to speak on any resumption of the debate on that subject, but this clause does not deprive a mover of the right of reply.

8.8 That the matter be deferred—when moved, how dealt with and effect

(1) A member may—

(a) at the conclusion of the mover's opening speech to the motion; or

(b) if the mover elects not to speak on moving the motion, prior to any debate on the motion,

move a motion without notice, that the matter be deferred to a later hour on the same day or to a subsequent meeting.

(2) Should the motion to defer be carried there shall be no further debate on the motion until the time to which it is deferred.

8.9 That the motion be now put—when moved, how dealt with and effect

(1) A member may, at the conclusion of the speech of any other member, move without notice, that the question under consideration be now put and upon the motion being seconded, it shall immediately be voted upon without debate.

(2) A motion that the question be now put shall not be decided in the affirmative unless supported by a 75% majority (rounded up to the nearest whole number) of the members present.

(3) Should the motion be carried, any amendment before the meeting shall be put at once, or, if there is no amendment before the meeting, then the original motion or original motion as amended, shall be put at once, subject to subclause (4).

(4) Whenever it is decided by the meeting that the motion under consideration shall be put, the mover of the motion under consideration shall, if debate has occurred, and if otherwise entitled to do so, be permitted to speak in reply for no more than 3 minutes before the motion is put.

8.10 That the meeting proceed with the next business—when moved, how dealt with and effect

(1) A member may at the conclusion of the speech of any other member, move without notice, that the meeting proceed to the next business and if the motion be seconded, it shall be put forthwith without debate.

(2) If a motion "that the meeting proceed to the next business" is carried, then the substantive motion and any amendment being debated shall be considered as lapsed and no further debate is permitted.

8.11 That the motion lie on the table—when moved, how dealt with and effect

(1) A member may at the conclusion of the speech of any other member, move without notice that the motion or amendment under consideration lie on the table and upon that motion being seconded, it shall immediately be put without debate.

(2) Whenever it is decided by the meeting that a motion under consideration shall lie on the table, if it is passed in respect of an amendment, then the amendment and the substantive motion to which it relates must lie on the table.

(3) The meeting may at any time resolve to take the motion from the table.

(4) On a motion that the question lie on the table being carried, a record shall be taken of all those who have spoken on the subject under consideration up to the closing of the meeting and they shall not be permitted to speak on any subsequent consideration of the same matter when the debate is resumed, but this clause does not deprive a mover of the right of reply.

8.12 That the ruling of the Presiding Person be disagreed with—when moved, how dealt with and effect

(1) Subject to clauses 9.8 and 13.2, when the presiding person gives a ruling under clause 6.13 of this Local Law, a member may, provided it is done immediately, move that the ruling of the presiding person be disagreed with.

(2) On a motion that the ruling of the presiding person be disagreed with, the mover may speak for not more than 3 minutes and the seconder shall not speak other than to formally second the motion.

(3) If a motion under subclause (1) is carried, the ruling of the presiding person is reversed and the meeting shall proceed accordingly.

8.13 That the meeting be now closed—when moved, how dealt with and effect

(1) A member may at the conclusion of a speech of any other member, or on the conclusion of any business, move without notice that the meeting be now closed and upon that motion being seconded, the motion shall, subject to subclause (2) be immediately put without debate.

(2) On a motion that the meeting be now closed, the mover may speak for not more than 3 minutes and the seconder shall not speak other than to formally second the motion.

(3) If a motion that the meeting be closed is negated, a similar motion shall not be moved until after the matter under discussion has been disposed of, or if the closure was moved on the completion of a matter, a similar motion shall not be moved until the next matter on the agenda has been disposed of.

(4) On a motion that the meeting be now closed being carried, the debate on any matter under debate when the motion was moved will stand adjourned to its place on the agenda for the next meeting.

(5) On a motion that the meeting be now closed being carried, a record shall be taken of all those who have spoken on the subject under consideration up to the closing of the meeting and they shall not be permitted to speak on any subsequent consideration of the same matter when the debate is resumed, but this clause does not deprive a mover of the right of reply.

PART 9—PRESERVING ORDER**9.1 Presiding Person to preserve order**

The presiding person shall be responsible for preserving order and may call any member to order whenever in the opinion of the presiding person there is cause for doing so.

9.2 Presiding Person to be heard

Whenever the presiding person rises during a debate, any member then speaking or offering to speak is to sit down and the meeting is to be silent so that the presiding person may be heard without interruption.

9.3 Definition of order

Any member who does anything or behaves in a manner which is forbidden by any of this Local Law shall be deemed to be out of order.

9.4 Breaches of order

Notwithstanding the generality of the preceding clause the following shall be recognized as breaches of order—

- (a) the use of offensive or insulting language;
- (b) insinuations as to the character, morality, honesty or motives of a member or employee;
- (c) the violation of any part of this Local Law or any other written law of the City;
- (d) any other breach of a Code of Conduct of the council at a meeting.

9.5 Member drawing attention to breach of order

(1) Any member may direct the attention of the presiding person to any breach of order by any member at the meeting. A member directing attention to a breach of order under this clause is not to be taken to be raising a point of order within the meaning of clause 6.1 unless the alleged breach of order is by a member speaking in the course of debate in which case the matter is to be dealt with as a point of order under clauses 6.11, 6.12 and 6.13. Otherwise the provisions of this clause apply.

(2) A ruling by a presiding person on allegation of breach of order under this clause shall be final and not open to debate under clause 6.13 or otherwise.

(3) A member directing attention to a breach of order shall specify one of the grounds in subclause 11.4(1) and in the case of item (c) or (d) shall state the provision of this Local Law, or the written law or Code of Conduct believed to be breached.

9.6 Prevention of disturbance**(1) No interruption**

A person, not being a member, shall not at any meeting interrupt the proceedings of the meeting.

(2) Person not a Member interrupting

Any person, not being a member, interrupting the proceedings of the meeting shall when so directed by the presiding person, forthwith leave the room in which the meeting is being held.

(3) Removal by order

Any person, not being a member, who, being directed to leave the meeting fails to do so may, by order of the presiding person, be removed from the meeting room.

(4) Enforced removal

If a person, not being a member, ordered by the presiding person to be removed from the meeting room cannot be removed without the application of physical force then a member or members of the Western Australian Police shall be called to the meeting to effect the removal of the person and the meeting may be adjourned until the person has been removed.

9.7 Precedence of questions of order

Notwithstanding anything contained in this Local Law to the contrary, the raising of a point under clause 1.11 or the allegation of a breach of order under clause 9.5 shall, until the question is decided, suspend the consideration of and decision on every other question.

9.8 Rulings by Presiding Person

Notwithstanding clauses 6.12 and 8.12, there shall be no dissent from a ruling of the presiding person allowing or disallowing a question on a matter required to be dealt with.

9.9 Ruling out of order

Whenever the presiding person has decided that any motion, amendment or other matter before the meeting is out of order, it shall be rejected and whenever anything said or done by any member is similarly decided to be out of order by reason of use of offensive or insulting language or insinuation as to the character, morality, honesty or motives of a member or employee, that member ruled out of order shall be called upon by the presiding person to make such explanation, retraction or apology, as the case may require. The provisions of this clause apply to a member who is out of order under clause 6.12 or clause 9.4.

9.10 Withdrawal of offensive expression

(1) Notwithstanding the provisions of subclause 6.12(2) or clause 9.5, together with clause 9.9, any member who uses an expression which, in the opinion of the presiding person, is offensive to any member or employee is, when required by the presiding person, to unreservedly withdraw the expression and make a satisfactory apology.

(2) If the member declines to do so, the presiding person may refuse to hear the member any further upon the matter then under discussion and may call upon the next speaker.

9.11 No disturbance by member

A member shall not create a disturbance in the meeting room, nor converse aloud while any other person is addressing the meeting, unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 9.15.

9.12 Continued breach of order

Where the presiding person declares that a member is out of order, the presiding person may direct that member to refrain from taking any further part in the debate of the item, other than by recording the member's vote, and the member shall comply with that direction.

9.13 Serious disorder

(1) If at a meeting the presiding person is of the opinion that by reason of serious disorder or otherwise, the business of the meeting cannot effectively be continued, the presiding person may adjourn the meeting for a period not exceeding 30 minutes, after the expiration of which the meeting shall reconvene and decide by majority of members present whether business is to be proceeded with, which question shall be decided forthwith and without debate.

(2) Where, upon the resumption of the meeting adjourned pursuant to subclause (1), the presiding person is again of the opinion that the business of the meeting cannot effectively be continued, the presiding person shall adjourn the meeting to a time and date to be set by the presiding person which may be the same day or another day.

9.14 No effect on presentation

The fact that a withdrawal or apology may be sought or given under any provision of this Local Law shall not limit the operation of the enforcement and offence provisions of this Local Law.

9.15 The Presiding Person may take part in debate

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in this Local Law, the presiding person may take part in a discussion of any matter before the council or committee as the case may be. Upon indicating that he or she would like to take part in the debate, the presiding person is to vacate the chair, and that part of the meeting is to be presided over by the Deputy Mayor in the case of council or electors meetings, deputy presiding person in the case of a committee meeting, or another member of the council or committee if the Deputy Mayor or deputy presiding person is unavailable or unwilling to act.

PART 10—COMMITTEES

10.1 Committees and their meetings

The Act deals with committees and their meetings. See in particular—

- Types of committees
- Appointment of committee members
- Tenure of committee members
- Election of presiding members, deputy presiding members
- Function of deputy presiding members
- Who acts if presiding member not present
- Reduction of quorum for committees.

10.2 Classes of Committee

The council shall appoint an Audit Committee in accordance with the Act and Regulations and may from time to time appoint other committees in the categories of Standing Committee, Occasional Committee, Management Committee or Advisory Committee, or such other categories as council from time to time considers appropriate. The general term "committee" when used in this Local Law refers to a committee in any of those categories.

10.3 Committee functions

Upon resolving to form a committee or a category of committees, the council shall determine the functions of the committee or category of committee. The function of the Audit Committee shall be in accordance with the provisions of the Act and *Local Government (Audit) Regulations 1996*.

10.4 Powers delegated to Committees

Upon forming a committee or a category of committees, the council may delegate powers to the committee consistent with the Act and Regulations.

10.5 Committees to keep minutes

Minutes of Meetings will be kept in accordance with the provisions of the Act

10.6 Open doors

As provided in clause 4.1, the business of any committee shall be conducted with open doors unless the committee resolves to close the meeting to the public as allowed by the Act.

PART 11—MISCELLANEOUS**11.1 Protection of employees****(1) Complaint**

If a member has any complaint concerning the ability, character or integrity of an employee or of any act or omission of such employee and desires to bring such complaint forward, the member shall submit the complaint to the CEO. Where a complaint is about the CEO, such complaint shall be submitted to the Mayor.

(2) Employee to have right of reply

If a complaint or criticism is made concerning an employee, whether by a member or by any other person, that employee may reply to the complaint or criticism either orally or in writing to the council, or to a relevant committee if the employee so prefers.

11.2 Implementing decisions

Neither the CEO nor any member, nor any employee of the City, is to take any step to implement or otherwise give effect to a resolution until close of business on the next working day after the close of the meeting at which the resolution was passed.

11.3 Revocation or change of resolution

(1) The procedure in regard to the revoking or changing of a decision made at a council or committee meeting shall be as set out in regulation 10 of the Regulations.

(2) If a notice of motion to revoke or change a decision of the council or a committee is received before any action has been taken to implement that decision, then no step is to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that—

- (a) if a notice of motion to revoke or change a decision of the council or a committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under regulation 10 of the Regulations indicate their support for the notice of motion at that meeting; and
- (b) if a notice of motion to revoke or change a decision of the council or a committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion has the support in writing of the number of members required to support the motion under regulation 10 of the Regulations.

(3) Implementation of a decision is only to be withheld under subclause (2) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.

(4) The council or a committee shall not vote on a motion to revoke or change a decision of the council or committee, whether the motion of revocation or change is made with or without notice, if at the time the motion is moved or notice is given—

- (a) action has been taken to implement the decision; or
- (b) where the decision concerns the issue of an approval for the issue or authorisation of a licence permit or certificate, and where that approval or the issue or authorisation of a licence, permit or certificate has been put into effect by the City in writing to the applicant or the applicant's agent by an employee of the City with authority to do so,

without having considered the statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

11.4 Production of documents to members

Access to information by members is as provided in the Act.

11.5 Meetings of electors

This Local Law shall so far as practicable apply to meetings of electors except for the following—

(1) The Mayor or such other person determined in accordance with section 5.30 of the Act shall preside at any meeting.

(2) The Mayor or other person presiding, pursuant to the power in regulation 18 of the Regulations to determine the procedure at a general or special electors' meeting—

- (a) may require questions to be submitted in writing;
- (b) may determine that all questions if answered at the meeting shall be answered by the person presiding or with the permission of the person presiding, by a councillor or employee;
- (c) may require that if any question cannot readily be answered at the meeting, the answer shall be given in writing as soon as reasonably practicable thereafter;
- (d) may require that the mover of a motion submit the motion in writing; and
- (e) may close the meeting when the person presiding determines that the business of the meeting has been concluded.

(3) All questions if answered at the meeting shall be answered by the Mayor or with the permission of the Mayor, by a councillor or employee.

(4) If any question cannot readily be answered at the meeting the answer shall be given in writing as soon as reasonably practicable thereafter.

(5) If required by the Mayor the mover of a motion shall submit any motion in writing.

(6) The Mayor may close the meeting when the Mayor determines that the business of the meeting has been concluded.

(7) Subject to the Act and to this Local Law, the conduct of a meeting of ratepayers and electors shall be at the sole discretion of the Mayor.

PART 12—DISCLOSURE OF FINANCIAL INTERESTS

12.1 Separation of Committee recommendations

If a member has disclosed a financial interest in a matter at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or another committee, which meeting is likely to be attended by the member, the recommendation relating to the matter is to be separated on the agenda of the relevant meeting of the Council or the other committee, from other recommendations of the committee so as to enable the member concerned to disclose the interest at the subsequent Council or committee meeting, and to leave the meeting room prior to consideration of that matter only.

12.2 Member with a financial interest may ask to be present

(1) If a member has disclosed the nature of a financial interest the member has in a matter, the member may, immediately before the matter is considered by the meeting, without disclosing the extent of the interest, request that the member be allowed to be present during any discussion or decision-making procedure relating to the matter.

(2) If such a request is made, the member is to leave the meeting room while the request is considered. If the request is allowed, the member may return to the meeting room and be present during the discussion or decision-making procedure related to that matter, to the extent allowed by the other members, but is not permitted to participate in any way.

12.3 Member with a financial interest may ask to be allowed to participate

(1) A member who discloses both the nature and extent of a financial interest the member has in a matter, may request permission of the meeting to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision-making procedures relating to the matter. If such a request is made, the member is to leave the meeting room while the request is considered.

(2) Those matters may be considered at a meeting if raised otherwise than by the request of the member who has disclosed a financial interest, but in that event the other members should not consider the question unless the member who has disclosed the financial interest consents to the matter being considered and discloses the extent of his or her financial interest in the matter.

(3) If it is decided at a meeting that a member who has disclosed both the nature and extent of the member's financial interest in a matter, is allowed to preside at the meeting, or to participate in the discussions and/or the decision-making procedures relating to the matter, then the member may return to the meeting room to participate to the extent allowed.

12.4 Invitation to return to provide information

If a member has disclosed a financial interest in a matter and has left the meeting room, the other members may resolve to invite the disclosing member to return to provide information in respect of the matter or in respect of the disclosing member's interest in the matter and in such case the member is to withdraw after providing the information and before there is any discussion or vote on the matter.

12.5 Disclosure of financial interests by employees

(1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has a financial interest, the nature of the interest is to be disclosed at the commencement of the report.

(2) If such an employee makes an oral report to a meeting on a matter in which the employee has a financial interest, the employee is to preface the employee's report or advice to the meeting by orally disclosing the nature of the interest.

PART 13—DISCLOSURE OF INTEREST AFFECTING IMPARTIALITY

Division 1—Disclosure by members

13.1 Introduction

In order to address the problem of apparent bias, particularly in regard to matters where the Council is required to perform a quasi judicial function (e.g. in deciding on applications for the grant of an approval, licence or consent), the City wishes to give guidance in this Part as to the way in which members may act to protect the reputation of themselves, the City, and local government generally.

13.2 Legislative requirements

The provisions in this Part are made with the knowledge that—

- (a) no written law requires a member who discloses an interest affecting impartiality, to leave the meeting room; and
- (a) section 5.21(2) of the Act, requires each member who is present at a meeting (and who has not disclosed a financial interest) to vote.

13.3 Disclosing member continuing to be present

Where a member has disclosed in regard to a matter, an interest affecting impartiality, the member should consider whether the interest is—

- (a) so trivial or insignificant; or
- (b) shared in common with such a significant number of electors, ratepayers, or residents of the district,

that the interest would not affect the members impartiality, and would not be likely to be perceived as affecting the members impartiality.

If the interest is in one of the categories (a) or (b) above, the member may see fit to continue to participate in the meeting and in that case should signify the intention to do so, to the presiding person, either—

- (c) in the written notice of disclosure if there is one; or
- (d) at the meeting immediately after the disclosure of the interest.

In signifying that intention, the member should disclose the extent of the interest and the reason why the member considers the interest is trivial or insignificant or shared in common so as not to affect or appear to affect the member's impartiality.

13.4 Disclosing member leaving the room

If a member considering the matters mentioned in clauses 13.3(a) and (b) above is not satisfied that the interest disclosed is either trivial or insignificant or shared in common in the necessary sense, and may affect or be perceived to affect the members impartiality in the matter, the member should leave the meeting room before any discussion or voting on the matter occurs.

13.5 Separation of Committee recommendations—impartiality interest

If a member has disclosed an interest affecting impartiality in a matter at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of the Council or of another committee that is likely to be attended by the disclosing member, the recommendation concerned is to be separated on the agenda of the relevant meeting from other recommendations of the committee, to enable the disclosing member to—

- (a) disclose the nature of the interest and if the member sees fit, to leave the meeting room prior to consideration of that matter only; or
- (b) disclose the nature and extent of the interest and remain present in which case the member must vote on the matter.

13.6 Member with an impartiality interest may decide to be present

(1) Where a member has disclosed the nature of the member's interest affecting impartiality in a matter, the member may, immediately before the matter is considered by the meeting, without disclosing the extent of the interest, indicate that the member intends to be present during any discussion or decision-making procedure relating to the matter.

(2) If such an indication is given, the member is to remain in the meeting room and in that event is to participate in the discussion and decision-making processes in relation to the matter.

13.7 Member with an interest may ask for the meeting's views on participation

(1) A member who discloses an interest affecting impartiality may indicate a desire to take part in the discussion and decision-making processes in relation to the matter, but may seek a view of the other members as to the appropriateness of the member doing so.

(2) If the disclosing member discloses not only the nature but also the extent of the interest, the other members at the meeting may, but are not obligated to express a view as to whether the interest concerned is of such a nature as to be perceived to affect the member's impartiality.

(3) The disclosing member should remain absent from the meeting room while the question in subclause (2) is being considered.

(4) If it is decided at the meeting that the member who has disclosed the impartiality interest ought to participate in the discussion and decision-making processes in relation to the matter, that view should be communicated to the disclosing member and an opportunity should be given to the member to return to the meeting room in the event that the member is prepared to participate in the discussion and decision-making processes in regard to the matter.

(5) The decision on departing from or remaining present in the meeting room is a decision ultimately for the disclosing member, and a decision by the other members under subclause (2) above has no greater force than a view of the majority of other members.

13.8 Invitation to return to provide information

If a member has disclosed an interest affecting impartiality in a matter and has left the meeting room, the other members may resolve to invite the member to return to provide information in respect of the matter or in respect of the disclosing member's interest in the matter, and in that event the disclosing member should be allowed an opportunity to depart the meeting room again in the event that the member does not wish to remain to participate in the discussion and decision-making process in regard to the matter.

*Division 2—Disclosure by employees***13.9 Impartiality interests of employees**

The obligations of an employee in regard to the disclosure of an interest affecting impartiality are set out in regulation 34C of the Regulations and in any Code of Conduct of the City relating to employees.

13.10 Employee departing the meeting room

When an employee discloses an interest affecting impartiality, the employee should depart the meeting room unless the employee is confident on reasonable grounds that the interest in question is fully understood as to the nature and extent, would not be perceived as capable of affecting the employee's impartiality in relation to the matter the subject of the disclosure.

PART 14—ENFORCEMENT OF THIS LOCAL LAW

14.1 Enforcement of this local law

- (1) The presiding person at a meeting shall be responsible for ensuring that this Local Law is complied with during the course of the meeting and generally.
- (2) The provisions of this Local Law may be enforced by proceedings in accordance with the Act but only following the specific direction of the council or committee by resolution carried by a simple majority. Unless the council directs otherwise a prosecution for an offence against this Local Law is to be commenced by the Chief Executive Officer.
- (3) The taking of prosecution proceedings for an offence under this local law, or the possibility of prosecution proceedings being taken does not in any way preclude or limit the making of a complaint under section 5.107 of the Act of a minor breach of the *Rules of Conduct Regulations*, or a recurrent breach.
- (4) Notwithstanding subclause (3), neither the presiding person nor the CEO should undertake prosecution proceedings for an offence under this local law if the presiding person or CEO has made a complaint in respect of the same matter under section 5.107 of the Act and that complaint has not been determined by the Standards Panel, or if the complaint has been determined and the member complained about has been dealt with by the imposition of any of the sanctions in section 5.110(6)(b) or (c) of the Act.

14.2 Rulings of the Presiding Person

- (1) In cases of procedure where this Local Law and the Act are silent, the presiding person shall decide all questions of order, procedure, debate or otherwise.
- (2) Where the presiding person decides any question under this Local Law, save for a question of order decided under clause 6.12, there shall be no dissent from or debate on the decision of the presiding person.
- (3) Notwithstanding the provisions of subclause (2), a presiding person in his/her sole discretion, may call for a vote on a ruling open to him/her under subclause (1). The vote is to be taken without a motion and without debate and the presiding person shall be bound by the outcome of the vote.

14.3 Penalty for offence when not otherwise specified

- (1) Contravention of a provision of this Local Law is an offence.
- (2) If the penalty for which a person is liable for committing an offence under this Local Law is not otherwise specified, the penalty is a fine of \$1,000.

14.4 Custody and affixing of Common Seal

- (1) The form of the sealing clause of the City of Swan if required is—

“The Common Seal of the **City of Swan** was hereunto affixed

_____”

- (2) The CEO or an employee of the City authorised by the CEO, is responsible for the care of the Common Seal and shall keep it in safe custody.
- (3) If the Act or any other law requires that the Common Seal be affixed to any document, then the Common Seal shall be affixed in accordance with the provisions of the Act or any other law and if the Common Seal is required to be affixed to a document in respect of which no direction is given in the Act or any other law as to the circumstances and manner of its affixing, the council may, from time to time, direct either generally in respect of all documents not otherwise provided for, or in respect of a class of documents or a specific document, not otherwise provided for, that the Common Seal shall be affixed to any such document without any further resolution of the council being required.
- (4) Where a document is not required by any Act or other law to have the Common Seal of the City affixed to it, then it may be executed by the signature of the CEO, or an employee of the City of executive status, authorised by the CEO to so sign.
- (5) Notwithstanding the provisions of subclause (4), any document is validly executed by the City when the Common Seal is affixed to it by the CEO or an employee of the City authorised in that behalf by the CEO, and the CEO attests that the Common Seal has been properly affixed in accordance with the provisions of subclause (1).
- (6) The CEO may authorise an employee of the City of executive status to execute documents under seal as provided in subclause (5).

(7) The CEO shall cause to be kept a register of all documents to which the Common Seal of the City has been affixed.

Dated the 2nd day of March 2011.

The Common Seal of the City of Swan was hereunto affixed by authority of Council—

MICHAEL JAMES FOLEY, Chief Executive Officer.
COLIN CAMERON, Executive Manager.
