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LOCAL GOVERNMENT ACT 1995

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**SHIRE OF ESPERANCE**

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**LOCAL LAW RELATING TO STANDING ORDERS**



**LOCAL GOVERNMENT ACT 1995****SHIRE OF ESPERANCE****LOCAL LAW RELATING TO STANDING ORDERS (CONDUCT OF PROCEEDINGS AND BUSINESS OF COUNCIL)**

In pursuance of the powers conferred upon it by the abovementioned Act, and all other powers enabling it, the Council of the Shire of Esperance hereby records having resolved on the 28th October 1997 to revoke the Standing Order By-laws published in the *Government Gazette* on 12th August 1970 and to make the following local law.

**1.0 INTERPRETATION****Standing Orders**

1.1 The proceedings and business of the council shall be conducted according to this Local Law which shall be referred to as "the standing orders".

**Interpretation**

1.2 In this Local Law—

"Act"—means the Local Government Act 1995.

"chairperson"—means any person presiding at any meeting to which the standing orders apply.

"CEO"—means the Chief Executive Officer of the Shire of Esperance or a person acting in that capacity.

"committee"—means any committee comprising council members only or council members and employees.

"council"—means the council of the Shire of Esperance;

"deputation"—means a pre-determined arrangement for a person or persons to address the council or a committee at a specified time during the meeting other than public question time or during the time allocated in clause 7.2 for members of the public to address committee meetings.

"elector"—means a person who is eligible to be enrolled to vote at elections for a ward within the Shire of Esperance.

"employee"—means any person employed by the Shire of Esperance.

"meeting"—means any ordinary or special meeting of the council or a committee.

"member"—has the same meaning as defined in section 1.4 of the Act and includes any employees appointed to a committee in accordance with section 5.9(2)(b) of the Act.

"negated"—means lost on a vote of the members of the council or of a committee.

"officer"—means any employee in attendance at a meeting.

"question"—means a request for information or an inquiry.

1.3 Words used in the standing orders have the same meaning as given to them for the purposes of the Act unless the context requires otherwise.

**2.0 MEETINGS—NOTICE AND BUSINESS****Kind of Meetings**

2.1 Meetings shall be of two kinds, ordinary or special. Ordinary meetings are those called at such place and at such times as council, from time to time, appoints for the transaction of the ordinary business of the council. Special meetings are those called to consider specific business, the nature of which shall be specified in the notice convening the meeting. No business shall be transacted at a special meeting other than that for which the special meeting has been called.

**Service of Notices**

2.2 A notice of meeting shall be in writing and served on each member—

(a) by delivering it to the member personally; or

(b) by delivering it to the member's usual place of abode or business; or

(c) by sending it to the member by post or facsimile at the member's usual place of abode or business and a notice sent by post shall be deemed to have been served at the time when in the ordinary course of post it would have reached the address to which it was sent.

**Notice of Special Meeting**

2.3 Notwithstanding clause 2.2 a notice concerning a special meeting may be given in a person to person telephone call to the chairperson and each of the members before the holding of the meeting.

**Notice of Adjourned Meeting**

2.4 When a meeting is adjourned to a day and hour other than the next ordinary meeting, notice of the adjourned meeting shall, if time permits, be sent in the manner provided in clause 2.2 to each member, specifying the nature of the business to be transacted.

**Failure to Receive Notice Not to Invalidate Proceedings**

2.5 Failure to receive a notice shall not affect the validity of any meeting so long as reasonable steps have been taken to serve such notice.

**Business**

2.6 No business shall be transacted at any meeting other than that specified in the notice relating thereto except—

- (a) matters which the Act permits to be dealt with without notice;
- (b) matters which the standing orders permit to be dealt with without notice.

**Order of Business**

2.7 The order of business at meetings of the council shall, unless altered by the chairperson or by council resolution, be as nearly as practicable as follows—

- (a) apologies and leave of absence;
- (b) opening prayer;
- (c) public question time;
- (d) confirmation of minutes;
- (e) announcements by the chairperson without discussion;
- (f) report by Chairperson;
- (g) reports by delegates;
- (h) questions of urgency with consent of the chairperson;
- (i) declarations of members and officers interest;
- (j) petitions and memorials;
- (k) business from previous meeting (consideration of any business left over from the previous meeting);
- (l) minutes of committee meetings;
- (m) reports of officers;
- (n) motions of which notice has been given;
- (o) notice of motion for consideration at the following meeting;
- (p) questions from members without notice;
- (q) public question time;
- (r) closure.

**Order of Business at Other Meetings**

2.8 The order of business at any other meeting shall be the order in which that business stands in the notice of the meeting unless the chairperson or members, by resolution, alter the order of business.

**Unacceptable Business**

2.9 If the chairperson is of the opinion that any motion, question or business proposed to be made or transacted at a meeting is disrespectful, the chairperson may declare either before or after the motion, question or business is brought forward, that the motion, question or business shall not be entertained. Any member may move dissent from the declaration made by the chairperson, and in the event of the dissent motion being carried by a majority of the members present the business referred to shall be entertained, but not otherwise.

**Business at Adjourned Meeting**

2.10 At an adjourned meeting, no business shall be transacted other than business specified on the notice of the meeting of which it is an adjournment, and which remains undisposed of, except in the case of an adjournment to the next ordinary meeting, when the business undisposed of at the adjourned meeting shall be given precedence at such ordinary meeting.

**3.0 MEETINGS—QUORUM****Quorum**

3.1 Except in cases where the Minister for Local Government may have reduced the number necessary to form a quorum for a council meeting or the council may have reduced the number necessary to form a quorum for a committee meeting, the number of members necessary to form a quorum for any meeting—

- (a) where the total number of offices of member (whether vacant or not) is an even number, is one half of that total;
- (b) where the total number of offices of member (whether vacant or not) is an odd number, is the integer nearest to, but greater than, one half of that total.

**Quorum Must be Present**

3.2 Business shall not be transacted at a meeting unless a quorum is present.

**Absence of Quorum**

3.3 If at any meeting a quorum is not present within half an hour after the time appointed for that meeting, the chairperson or in the absence of a chairperson the majority of the members present, or any one member, if only one be present, or if no member is present, the CEO or a person authorised by the CEO, may adjourn the meeting to some future date.

**Absence of Quorum during Meeting**

3.4 (1) If at any time during any meeting a quorum is not present the chairperson shall thereupon suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the expiration of that period, the meeting shall be deemed to have been counted out, and the chairperson shall adjourn it to some future date.

(2) Where the debate on any motion, moved and seconded, is interrupted by the meeting being counted out, that debate may, on a motion at a subsequent meeting without notice, be resumed from the point it was so interrupted.

**Names Recorded**

3.5 At any meeting at which there is not a quorum of members present, or at which the meeting is counted out for want of a quorum the names of the members then present shall be recorded in the minutes.

**4.0 MEETINGS—MINUTES****Minutes of Council Meetings**

4.1 Except as provided for in clause 2.10, the minutes of any preceding meeting of the council, whether ordinary or special, not previously confirmed shall be submitted and confirmed at ordinary meetings of the council and no discussion thereon shall be permitted except as to their accuracy as a record of the proceedings, and each page of the minutes shall then, if found to be correct, be signed and dated by the chairperson.

**Minutes of Committee Meetings**

4.2 (1) The minutes of any committee meeting containing any recommendation to the council shall be submitted to the next ordinary meeting of the council.

(2) Except as provided for in clause 2.10 the minutes of any preceding meeting of a committee whether ordinary or special, shall be submitted and confirmed at ordinary meetings of the committee and no discussion thereon shall be permitted except as to their accuracy as a record of the proceedings, and each page of the minutes shall then, if found to be correct, be signed and dated by the chairperson.

**Circulation of Minutes**

4.3 A copy of the minutes of all meetings shall, as soon as practicable after the meeting be provided to the president and all councillors.

**5.0 MEETINGS—QUESTIONS****Questions and Answers to be Brief**

5.1 (1) Every question and answer shall relate to the business of council, be submitted as briefly and concisely as possible and no discussion shall be allowed.

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

**Questions from Members**

5.2 (1) A member may ask a question at a council meeting regarding general information as to the business or procedure of the council during time allocated for questions from members without notice. If the answer to the question at the meeting at which it is asked cannot be given, the CEO or officer authorised by the CEO shall arrange for—

(a) the answer to be submitted to the next meeting of the appropriate committee;

or

(b) the answer to the question to be given to the member prior to the next ordinary meeting of council with a copy being provided to all other members of the council who indicate at the time that they also require a copy.

(2) A member may at any time ask a question, through the chairperson, of any other member or officer. The question shall relate to the matter under consideration and the chairperson shall have the power to refuse to have any question answered when the chairperson is of the opinion that the question is irrelevant, repetitious, mischievous or unnecessary.

**Public Question Time**

5.3 (1) Public question time shall be held in accordance with section 5.24 of the Act prior to the discussion of any matter that requires a decision to be made by the meeting.

(2) In addition to clause 5.3(1) public question time may be held prior to the closure of any ordinary council meeting.

**6.0 MEETINGS—NOTICE OF MOTIONS****Notice of Motion**

6.1 (1) Unless otherwise permitted by the Act or the standing orders, a member may only bring forward at a council meeting business in the form of a motion of which notice has been given, in writing, to the CEO.

- (2) Notice of motion shall be given to the CEO either—
- (a) at the previous council meeting, or
  - (b) at least seven clear days before the council meeting at which it is to be brought forward.

#### **Motion to be Considered**

- 6.2 Every such motion as is mentioned in clause 6.1 shall be considered by the council unless—
- (a) the member who gave notice thereof, or some other member authorised by the member, in writing, is not present to move the motion when called on; or
  - (b) the council by resolution agrees to defer consideration of the motion to a later stage or date.

### **7.0 DEPUTATIONS/ADDRESSING COMMITTEES**

#### **Deputations**

- 7.1 (1) Persons wishing to make a deputation shall in the first instance make a request to the CEO outlining the subject matter to be raised by the deputation. On receiving such a request the CEO shall notify the chairperson of the appropriate meeting who may elect to invite the deputation to attend.
- (2) A deputation shall not exceed five in number and no more than two shall address the meeting, except in reply to questions from members.

#### **Committee Meetings—public may attend and address the Committee**

- 7.2 (1) After a meeting of a committee has been formally constituted and the business concerning the declaration of members and officers interest disposed of and when required, public question time has been held, the chairperson shall extend an invitation to persons from the public present to address the committee on any item listed in the notice paper.
- (2) Persons electing to address the committee on an item in the notice paper must first state their name, identify the item on the notice paper and demonstrate to the chairperson that they have an interest in the item as a result of being—
- (a) the applicant or a consultant or representative of the applicant.
  - (b) a person representing an organisation or a group of persons involved with the application.
  - (c) an adjoining neighbour of the applicant.
  - (d) such other persons as in the opinion of the chairperson have a significant direct or indirect interest in the item on the notice paper.
- (3) Persons addressing the committee on an item on the notice paper will be limited to a period of five minutes.
- (4) Members of the committee may, through the chairperson, question persons addressing the committee on the item in the notice paper but no debate or general discussion will be permitted.
- (5) The committee may bring forward and deal with the item listed in the notice paper immediately following the conclusion of questions to the persons addressing the committee but only when the persons have returned to the public areas of the meeting room. Consent to vary the order of dealing with items on the notice paper under this clause shall be signified without debate and does not require a motion to be moved.

### **8.0 MEETINGS PROCEDURE**

#### **Presiding at Council Meetings**

8.1 The president, shall preside at all ordinary and special meetings of the council and in the president's absence, or if after being present the president retires or is unable or unwilling to preside, the deputy president shall preside but if the deputy president is not present, or after being present retires or is unable or unwilling to preside, then one of the members chosen by majority vote of the members then present shall preside.

#### **Presiding at Committee Meetings**

8.2 The presiding member of a committee elected in accordance with the Act shall preside at a meeting of that committee and in the presiding member's absence, or if after being present the presiding member retires or is unable or unwilling to preside, the deputy presiding member shall preside but if the deputy presiding member is not present, or after being present retires or is unable or unwilling to preside, then one of the members chosen by majority vote of the members then present shall preside.

#### **Members to Address the Chairperson**

8.3 Except where this clause is suspended under clause 8.11, any member moving a motion or amendment, or taking part in the discussion thereof at a council meeting shall, except when prevented by sickness or physical disability stand and address the chairperson.

#### **Respect to the Chairperson**

8.4 After any meeting has been formally constituted and the business thereof commenced, a member shall not enter, leave or withdraw from such meeting without first paying due respect to the chairperson.

#### **Titles to be used**

8.5. A speaker, in referring to any other member or officer present, shall designate that person by his/her appropriate title.

**Priority of Speaking**

8.6 Where two or more members indicate their intention to speak at the same time, the chairperson shall decide which of them is entitled to priority.

**Chairperson to be Heard**

8.7 Whenever the chairperson indicates an intention to speak during a debate, any member then speaking or offering to speak shall cease speaking and all other members shall be silent so that the chairperson may be heard without interruption.

**Chairperson to take Part in Debates**

8.8 Subject to the provisions of the Act and the standing orders, it shall be competent for the chairperson to move or second motions as well as to take part in a discussion upon any motion or business before the meeting.

**Speaking Twice/Right of Reply**

8.9 Except where this clause is suspended under clause 8.11, a member shall not speak twice on the same motion at a council meeting except—

- (a) in reply, upon an original motion of which the member was mover;
- (b) in reply, upon an amendment last debated of which the member was the mover;
- or
- (c) by way of personal explanation, in accordance with part 10.0.

**Speaking in Reply**

8.10 A member speaking in reply shall not introduce any new matter and shall be confined strictly to responding to and answering previous speakers.

**Suspension**

8.11 At a council meeting members may, by resolution moved without notice, suspend the operation of clause 8.3 or clause 8.9, and thereupon such clause shall be suspended until such time as the members, by similar resolution, otherwise decide.

**No Speech After Certain Events**

8.12 Subject to clause 11.3 no member shall speak on any motion or amendment—

- (a) after the mover has replied; or
- (b) after the question has been put.

**Mover and Seconder have Spoken**

8.13 A member moving a motion or amendment after obtaining a seconder, shall speak first to the motion or amendment but the seconder may reserve speaking to the motion or amendment to a later stage in the debate provided the seconder so indicates after the mover has spoken to the motion or amendment.

**Limit of Speeches**

8.14 A member shall not speak on any motion or amendment or in reply for a longer period than five minutes without the consent of the members, which shall be signified without debate. Only one extension of five minutes may be permitted.

**9.0 POINTS OF ORDER****Point of Order to be Heard**

9.1 No member shall interrupt another member addressing the meeting except to raise a point of order in which event the member shall cease speaking and be seated until the member raising the point of order has been heard and the question of order has been disposed of whereupon the member so interrupted may if permitted, stand and proceed.

**Acceptable Points**

9.2 (1) A member expressing a difference of opinion with or contradicting a speaker shall not be recognised as raising a point of order. The following shall be recognised as points of order—

- (a) discussion on a question not before the meeting.
- (b) the use of offensive or insulting language.
- (c) the violation of the standing orders or of the Act.

(2) A member raising a point of order shall specify the ground upon which the point of order is raised.

**Precedence to Points of Order**

9.3 Notwithstanding anything contained in the standing orders to the contrary, all questions of order at any time arising shall, until decided, suspend the consideration and decision of all other business.

**Rulings by Chairperson**

9.4 The chairperson, when deciding a point of order shall give a decision which decision shall be final unless a majority of members then present vote in favour of a motion of dissent.

## **10.0 PERSONAL EXPLANATION**

### **Personal Explanation**

10.1 (1) Unless otherwise permitted by the standing orders a member shall not speak on any matter, other than the matter before the meeting unless it is to make a personal explanation.

(2) A member making a personal explanation shall confine it to a succinct explanation of a material part of the member's former speech which may have been misunderstood and to the explanation itself and shall not avert to matters not strictly necessary for that purpose or seek to strengthen the member's former argument by any new matter or by replying to other members.

### **Personal Explanation—Member to be Heard**

10.2 A member making a personal explanation of matters referred to by any member then speaking shall be entitled to be heard forthwith 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 the speech.

### **Ruling on Questions of Personal Explanation**

10.3 The ruling of the chairperson on the admissibility of a personal explanation shall be final and conclusive and shall not be open to discussion or dissent.

## **11.0 MOTIONS AND AMENDMENTS**

### **Wording of Motion or Amendment to be Stated**

11.1 Any member desirous of proposing a motion or amendment shall state the wording of the motion or amendment before the member addresses the meeting on the motion or the amendment and, if so required by the chairperson shall put the motion or amendment in writing.

### **Motions and Amendments to be Seconded**

11.2 A motion or amendment shall not be discussed or put to the vote of the meeting unless seconded.

### **Member May Require Motion to be Read**

11.3 Any member may require the motion under discussion to be read for the member's information at any time during a debate, but not so as to interrupt any other member whilst speaking.

### **Permissible Motions During Debate**

11.4 (1) Subject to clause 11.4(3) when a motion is under debate, no further motion shall be moved except a motion—

- (a) that the motion be amended;
- (b) that the meeting adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the meeting proceed behind closed doors;

(2) Any motion referred to in clause 11.4(1) shall not be moved except at the conclusion of the speech of another member.

(3) When a motion or amendment under debate is dealing with a committee recommendation any member who has not spoken on the motion or amendment then before a council meeting may, at the conclusion of the speech of any other member, move a motion that the matter be referred back to the committee for further consideration.

### **Division of Motions**

11.5 The chairperson may, or the meeting by resolution may, require a complicated motion to be divided and put in the form of two or more motions.

### **Withdrawal of Motions**

11.6 A motion or amendment may be withdrawn by the mover with the consent of the meeting which shall be signified without debate and it shall not be competent for any member to speak upon the motion or amendment after the mover has asked consent for its withdrawal, unless that consent is refused.

### **Limitation of Withdrawal**

11.7 A motion shall not be withdrawn until any amendment proposed has been withdrawn or negated.

### **Nature of Amendments**

11.8 An amendment to a motion shall not negate the motion.

### **Amendments to Relate to Motion**

11.9 Every amendment to a motion must be relevant to the intention of the motion.

### **One Amendment at a Time**

11.10 Only one amendment shall be discussed at a time but as often as an amendment is lost, another amendment may be moved, before the original motion is put to the vote, except that where an amendment is carried, one further amendment to the original motion as amended, and no more, may be moved.

### **Amended Motion Treated as Original Motion**

11.11 Where an amendment is carried the original motion as amended shall, for the purposes of subsequent debate, and subject only to clause 11.10, be treated as the original motion.



**12.0 VOTING****All Members to Vote**

12.1 (1) At every meeting of the council, every member present at the meeting shall vote when a motion is put except—

- (a) where the Act otherwise provides, or
- (b) in the matter of confirmation of committee minutes in accordance with clause 4.2(2)

(2) Each member of a committee to which a local government power or duty has been delegated, who is present at a meeting of the committee shall vote when a motion is put except where the Act otherwise provides.

(3) If any member who is required to vote at the meeting fails to do so the chairperson shall call upon the member to vote.

**Equality of Votes**

12.2 At any meeting where there is any equal division of votes upon any motion the chairperson may cast a second vote.

**Method of Taking the vote**

12.3 The chairperson shall, in taking the vote on any motion or amendment, put the question first in the affirmative and then in the negative and may do so as often as is necessary to enable the chairperson to form and declare an opinion as to whether the affirmative or the negative has the majority. Voting shall be by a show of hands except where a member is prevented by physical disability which precludes compliance.

**Recording of Voting**

12.4 If a member specifically requests that there be recorded—

- (a) his or her vote; or
- (b) the vote of all members present;

on a matter voted on at a meeting, the chairperson is to cause the vote or votes, as the case may be, to be recorded in the minutes.

**13.0 MOTION—THAT THE MEETING ADJOURN****That The Meeting Do Adjourn**

13.1 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 do now adjourn, and that motion shall state the time and date to which the adjournment is to be made.

**Limit to further Motion**

13.2 Where a motion for the adjournment of the meeting is negated, no similar motion shall be moved until both the business then under discussion, and the next item on the notice paper, have been disposed of.

**Who May Move Motion**

13.3 (1) A member who has not spoken on the motion or business then before the meeting may move the adjournment of the meeting.

(2) A member shall not, at the same sitting of the meeting, move or second more than one motion for the adjournment of the meeting.

**Resumption of Adjourned Meeting**

13.4 On a motion for the adjournment of the meeting being carried, the debate on the motion or business (if any) under debate when the adjournment motion was moved shall be continued immediately upon the meeting resuming after the adjournment.

**Names of Speakers Recorded**

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

**Date and Time to be Specified**

13.6 The chairperson on a motion for adjournment being carried shall adjourn the meeting to such time and date as the motion specifies.

**14.0 MOTION—THAT DEBATE BE ADJOURNED****Motion for Adjournment of Debate**

14.1 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 of the same meeting or to a subsequent meeting.

**Who May Move Motion**

14.2 (1) A member who has not spoken on the motion or business then before the meeting may move the adjournment of the debate.

(2) A member shall not, at the same meeting, move or second more than one motion for the adjournment of the same debate.

**Speaker on Resumption of Adjourned Debate**

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

**Names of Speakers Recorded**

14.4 On a motion for the adjournment of a debate being carried, a record shall be taken of all those who have spoken on the subject 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.

**15.0 MOTION—THAT THE MOTION BE PUT****That the Motion be Put**

15.1 A member may, at the conclusion of the speech of any other member, move without notice that the motion under consideration be put.

**Who may Move Motion**

15.2 A motion that the motion under consideration be put shall only be moved by a member who has not already spoken on the motion.

**Right of Reply**

15.3 When it is decided by the meeting that the motion under consideration be put, the mover of the motion under consideration shall, if debate has ensued and if otherwise entitled to do so, be permitted to speak in reply before the motion is put, but subject thereto the motion shall be at once put.

**16.0 MOTION—THAT THE MEETING PROCEED BEHIND CLOSED DOORS****That the Meeting Proceed Behind Closed Doors**

16.1 All meetings shall be open to the public except when the meeting resolves to proceed behind closed doors to deal with any matter as listed in section 5.23(2) of the Act.

**Decision to be Recorded**

16.2 A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

**Business Behind Closed Door**

16.3 (1) After the carrying of a resolution under clause 16.1, the business at that meeting shall not be open to the public but shall proceed behind closed doors, until the meeting by resolution decides that the meeting shall be open to the public.

(2) Upon the carrying of such a resolution, the chairperson shall direct all members of the public and any officers that the meeting specifies to leave the meeting room and those persons shall forthwith comply with the direction.

(3) Any person failing to comply with a direction under clause 16.3(2) commits an offence and may, with the use of reasonable force if necessary, be removed from the meeting room.

(4) While a resolution made under this clause is in force, the operation of clause 8.9 shall be suspended, unless the meeting, by resolution, otherwise determines.

(5) All matters and questions considered or discussed by the meeting behind closed doors shall be treated as strictly confidential and shall only be disclosed by a member or officer to another person (whether that other person is a member or officer or not) to the extent that it is necessary for that member or officer to do so in the performance of his or her duties.

**17.0 DISTURBANCES AND BREACH OF ORDER****No Adverse Reflection on Council**

17.1 A member other than stating an objective personal opposition to a council decision or part of a council decision, shall not comment adversely upon a resolution of the council, except on a motion that the resolution be rescinded or amended.

**No Adverse Reflection on Member or Employee**

17.2 A member, shall not comment adversely upon the character or actions of another member or an employee or be disrespectful in any way to another member or employee.

**Record of Words Spoken**

17.3 A member who is of the opinion that particular words used by another member are in contravention of clause 17.2 may make a written record immediately upon them being used and require the CEO to enter that record in the minutes of the meeting.

**Demands for Withdrawal**

17.4 If any member commits a breach of clauses 17.1 or 17.2 the chairperson may require the member unreservedly to withdraw any offending comment and to make a satisfactory apology, and if the member declines or neglects to do so the chairperson may direct the member to cease speaking and may call on the next speaker.

**Disturbance by Members or Persons of the Public**

17.5 (1) A member shall not make any undue noise or disturbance or converse aloud while any other person is addressing the meeting, except—

- (a) to raise a point of order, or
- (b) to call attention to want of a quorum.

(2) A person, not being a member, shall not interrupt the proceedings of any meeting.

(3) Any person interrupting the proceedings of a meeting shall, when so directed by the chairperson, forthwith leave the meeting room.

(4) Any person, other than members, failing to comply with a direction under clause 17.5(3) commits an offence and may, with the use of reasonable force if necessary, be removed from the meeting room.

#### **Continued Irrelevance**

17.6 The chairperson may call the attention of a meeting to continued irrelevance, tedious repetition, unbecoming language, or any breach of order or decorum on the part of a member and may direct that member, if speaking, to discontinue speaking, and thereupon the member shall cease speaking and be seated.

#### **Respect for Chairperson and Speaker**

17.7 When the chairperson is putting any motion a member shall not walk out of or into the meeting room and shall not, whilst any member is speaking pass between the speaker and the chair.

#### **Chairperson to Preserve Order**

17.8 The chairperson shall preserve order and may call any member to order whenever, in the chairperson's opinion, there is cause for so doing.

#### **Members may Direct Attention to Breaches of Order**

17.9 Every member or officer shall be entitled to direct the attention of the chairperson to any breach of the Act or the standing orders, or to draw the attention of the chairperson to any matter of which the chairperson may take notice under clause 17.6.

#### **Retraction or Apology on any Matter**

17.10 Whenever the chairperson is of the opinion that any motion, or other matter before the meeting is out of order in accordance with the standing orders or the Act the motion or other matter shall be rejected, and whenever anything said or done in the meeting by any member is similarly decided to be out of order in accordance with the standing orders or the Act, that member shall be called upon by the chairperson to make such explanation, retraction or apology as the case may require.

#### **Continued Breach of Order**

17.11 When a member persists in any conduct which the chairperson decides is out of order in accordance with the standing orders or the Act, or refuses to make any explanation retraction or apology required by the chairperson under clause 17.4 or 17.10 the chairperson may direct that member to refrain from taking any further part in the meeting other than complying with the financial interest and voting provisions of the Act.

#### **Serious Disorder**

17.12 (1) If at a meeting the chairperson is of the opinion that, by reason of disorder or otherwise, the business of the meeting cannot effectually be continued, the chairperson may adjourn the meeting for a period of not more than fifteen minutes.

(2) Where after any adjournment under clause 17.12(1) the chairperson is again of the opinion that the business of the meeting cannot effectually be continued, the chairperson may adjourn the meeting to another date and time.

### **18.0 REVOKING OR CHANGING DECISIONS**

#### **Revoking or Changing Decisions**

18.1 (1) If a decision has been made at a meeting then any motion to revoke or change the decision must be supported—

- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
- (b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee as the case may be,

inclusive of the mover.

(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first mentioned decision must be made—

- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
- (b) in any other case, by an absolute majority.

(3) Clause 18.1 does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

#### **Negated Motions**

18.2 A motion to the same effect as any motion which has been negated except those motions provided for in clause 11.4 or where otherwise provided within the standing orders, shall not again be moved within a period of three months, except with the approval of an absolute majority of the members.

### **19.0 COMMITTEES**

#### **Appointment of Deputies**

19.1 (1) The council may appoint a member or members thereof to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee provided that a committee member is not appointed

deputy for another member of the same committee. Where two or more deputies are so appointed they shall have seniority in the order determined by the council.

(2) In the event of a member not being able to attend a meeting of a committee to which the member has been appointed, the member will endeavour to arrange for the appointed deputy to attend in the member's place.

#### **Attendance by Members as Observers**

19.2 In addition to the right to attend meetings of committees to which they are appointed, members have the right to attend other committee meetings as an observer. Members attending as observers may also be permitted by the chairperson of the committee to speak on any matter under consideration by the committee, but shall not be entitled to vote.

#### **Appointment of Committees**

19.3 Any motion to establish a committee shall contain—

- (a) the duties and any delegations proposed to be entrusted to the committee;
- (b) the number of members intended to constitute the committee;
- (c) the term of establishment of the committee.
- (d) details of when the committee is to meet and how it shall report to council.

#### **Calling of Committee Meetings**

19.4 The CEO shall call a meeting of any committee when required by council or when requested to do so by the chairperson or any two members of that committee.

#### **Recommendations become Resolutions**

19.5 If the council adopts a recommendation or recommendations contained in the minutes of a committee, without amendment or modification, the recommendation or recommendations so adopted shall be deemed to be a resolution or resolutions of the council as the case may be.

### **20.0 MISCELLANEOUS**

#### **Meetings of Electors**

20.1 (1) The standing orders apply, so far as is practicable, to any meeting of electors but, where there is any inconsistency between the provisions of the standing orders and the provisions of the Act, the latter shall prevail.

(2) A person who is not an elector is not entitled to vote at a meeting of electors, and may not take part in any discussion at that meeting, unless the meeting, by a motion, requests or authorises the person to do so.

#### **Petitions**

20.2 (1) A petition to council may be received, provided that the intention and legibility of the petition is clear.

(2) A petition must contain—

- (a) the names, addresses and signatures of the petitioners,
- (b) the name and address of the person who lodged the petition with the council shown on the front of the petition, and
- (c) the subject of the petition at the top of each page.

(3) The only question which shall be considered by the council on the presentation of any petition shall be—

- (a) that the petition shall be accepted; or
- (b) that the petition not be accepted; or
- (c) that the petition be accepted and referred to a committee for consideration and report; or
- (d) that the petition be accepted and be dealt with by the full council.

#### **Recordings of Proceedings Prohibited**

20.3 A person shall not use any visual or vocal electronic device or instrument to record the proceedings of any meeting unless that person has been given permission by the chairperson to do so.

#### **Production of Documents**

20.4 On giving to the CEO not less than four ordinary working hours notice a member is entitled to have tabled at the meeting for the duration of a meeting any document or record of the council, except any document or record referred to in clause 20.5, and the CEO, on receiving the notice, shall take all reasonable steps to table the document at the commencement of the meeting.

#### **Confidential Documents**

20.5 Any document which is to be placed before a meeting and which is in the opinion of the CEO of a confidential nature may at the CEO's discretion be marked as such and shall be treated as strictly confidential and shall only be disclosed by a member or officer to another person (whether that other person is a member or officer or not) to the extent that it is necessary for that member or officer to do so in the performance of his or her duties.

#### **Cases Not Provided for in Standing Orders**

20.6 The chairperson shall decide all questions of order, procedure, debate or otherwise, in respect of which no provision or insufficient provision is made in the standing orders or the Act.

**Rulings of the Chairperson**

20.7 Except as otherwise provided in the standing orders, a majority of the members present at a meeting may by resolution dissent from the chairperson's ruling on a matter under the standing orders. In all other cases the chairpersons ruling shall be final.

**Suspension of Standing Orders**

20.8 In cases of urgent necessity any of the standing orders may be suspended on a motion carried by an absolute majority of the members.

**21.0 ENFORCEMENT****Offence**

21.1 A person who breaches any clause of the standing orders commits an offence.

**Penalty**

21.2 A person who commits an offence under the standing orders is liable to a penalty which is not less than \$200 and not more than \$2000.

**Enforcement**

21.3 The chairperson of any meeting is authorised and empowered to enforce the standing orders and prosecute for any breach of the standing orders in relation to that meeting.

**22.0 REPEAL**

The Shire of Esperance By-law relating to the Conduct of Proceedings and the Business of Council as published in the Government Gazette on 12 August 1970 and as amended 29 December 1972, 14 June 1974 and 22 July 1994 are hereby repealed.

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Dated this Twenty Eighth day of October 1997.

The Common Seal of the Shire of Esperance is hereunto affixed by authority of a resolution of Council in the presence of—

I. S. MICKEL JP, President.  
J. D. BURROWS, Chief Executive Officer.

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