



*Shire of Esperance*

**STANDING ORDERS LOCAL LAW 2015**

*Local Government Act 1995*

**we make it  
happen**

**LOCAL GOVERNMENT ACT 1995**  
Shire of Esperance  
**STANDING ORDERS LOCAL LAW 2015**

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## **LOCAL GOVERNMENT ACT 1995**

### SHIRE OF ESPERANCE

## **LOCAL LAW STANDING ORDERS 2015**

In pursuance of the powers conferred upon it by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Esperance resolved on the 24 May 2016, to make the following Local Law.

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### **PART 1 PRELIMINARY**

#### **1.1 Citation**

- (1) This Local Law may be cited as the Shire of Esperance Standing Orders Local Law 2015.
- (2) In the clauses to follow, this Local Law is referred to as the “Standing Orders.”

#### **1.2 Commencement**

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

#### **1.3 Application**

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders.

#### **1.4 Definitions**

- (1) In these Standing Orders unless the context otherwise requires-

“**absolute majority**” has the meaning given to it in the Act

“**Act**” means the *Local Government Act 1995*

“**briefing session**” means any informal meeting or gathering between Councillors and staff to discuss the business of the Council or any matter on the agenda of a Council or committee meeting, either open to the public or not;

“**CEO**” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Esperance;

“**committee**” means a committee of the Council

“**Council**” means the Council of the Shire of Esperance

“**Local Government**” means the Shire of Esperance

“**presiding member**” means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act

“**Regulations**” means the *Local Government (Administration) Regulations 1996*

“**simple majority**” is more than 50% of the members present and voting

“**substantive motion**” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion

- (2) Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations

## **1.5 Repeal**

*Shire of Esperance Standing Orders 2001* published in the *Government Gazette* on the 9 November 2001 is repealed.

## **PART 2 CALLING AND CONVENING MEETINGS**

### **2.1 Ordinary and Special Council meetings**

- (1) Ordinary and special council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

### **2.2 Calling Council meetings**

The calling of Council meetings is dealt with in the Act.

### **2.3 Convening Council Meetings**

- (1) The convening of a Council meeting is dealt with in the Act.
- (2) Subject to subclause (3), the CEO is to give at least 72 hours notice, in convening a special meeting of the Council.
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

### **2.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the Presiding Member of committee or any two members of that committee.

### **2.5 Public notice of meetings**

Public notice of meetings is dealt with in the Regulations.

## **PART 3 BUSINESS OF THE MEETING**

### **3.1 Business to be Specified on Notice Paper**

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the person presiding or a decision of the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) No business is to be transacted at an adjourned meeting of the Council or a committee other than that-
  - (a) specified in the notice of the meeting which had been adjourned; and
  - (b) which remains unresolved;
- (4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to have precedence at that ordinary meeting.

### **3.2 Order of Business**

- (1) Unless otherwise decided by the members present, the order of business at any Council or committee meeting is to be the order in which that business stands in the agenda of the meeting.
- (2) The order of business at an ordinary meeting of the Council is to be shown as nearly as practicable in the agenda as follows:
  - (a) Official opening
  - (b) Apologies and notification of granted leave of absence
  - (c) Applications for leave of absence
  - (d) Announcements by the person presiding without discussion
  - (e) Declaration of members interests
  - (f) Public Question Time
  - (g) Public addresses/ Deputations
  - (h) Petitions
  - (i) Confirmation of minutes
  - (j) Delegates reports without discussion
  - (k) Reports
  - (l) Motions of which notice has been given
  - (m) Members questions with or without notice
  - (n) Urgent business approved by decision
  - (o) Matters behind closed doors
  - (p) Public Question Time
  - (q) Closure

- (3) Notwithstanding sub-clauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.
- (4) Notwithstanding sub-clause (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 that must be decided, or which he or she considers is appropriately decided, by that meeting.

### **3.3 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.
- (2) The Council or committee may take a question on notice for a later response.
- (3) When a question is taken on notice under sub-clause (2) 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 meeting of the Council or committee as the case requires.
- (4) Every question is to be submitted as briefly and concisely as possible.
- (5) A member of the public who participates in public question time must take direction from the person presiding whenever called upon to do so.
- (6) A Council or committee member may move to extend the time permitted (as per the regulations) for public question time at any meeting. The presiding person will put the motion without debate.

### **3.4 Public Addresses**

- (1) Public addresses are permitted at an ordinary meeting of the Council or a committee, not exceeding three (3) minutes, on any matter-
  - (a) which affects the local government, in the case of the Council; or
  - (b) which is the function of the committee, in the case of a committee.
- (2) Public addresses will be limited to three at any one meeting or more at the discretion of Council, applicable to the same issue
- (3) A member of the public who participates in a public address must take direction from the person presiding whenever called upon to do so.
- (4) A member may at the end of the business of public addresses—
  - (a) move that a matter be referred to a future Council or committee meeting for reporting; or
  - (b) where the matter is the subject of a report in the meeting agenda, move that a change be made to the order of business of the meeting to allow the matter to be debated immediately.

The person presiding will put the question without debate.

### **3.5 Deputations**

- (1) 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 President or presiding member as the case may be.
- (2) The President if the request is to attend a council meeting or the presiding member of the committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee, or may instruct the CEO to refer the request to the Council or committee to decide.
- (3) A deputation invited to attend a Council or committee meeting-
  - (a) is not to exceed five persons, only two of who may address the Council or committee or more at the discretion of Council, although others may respond to specific questions from the members;
  - (b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or committee as the case requires; and
  - (c) is only permitted to address the Council on a matter, which is on the agenda for that meeting.
- (4) Any matter the subject of a deputation is not to be decided by the committee until the deputation has completed its presentation.
- (5) A member of the public who participates in a deputation must take direction from the person presiding whenever called upon to do so.
- (6) A member may at the end of the business of deputations –
  - (a) move that a matter be referred to a future Council or committee meeting for reporting; or
  - (b) where the matter is the subject of a report in the meeting agenda, move that a change be made to the order of business of the meeting to allow the matter to be debated immediately;

And the person presiding will put the motion without debate.

- (7) A Council or committee member as the case requires may move to extend the time permitted for deputations at any meeting.

The person presiding will put the question without debate or may defer the question to a future council meeting.

### **3.6 Petitions**

- (1) A petition, in order to be effective, is to-
  - (a) be addressed to the President;
  - (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 *Local Government (Constitution) Regulations 1996* if it is-
    - (i) a proposal to change the method of filling the office of President;
    - (ii) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.
- (2) An electronic petition, in order to be effective, is to-
- (a) be addressed to the President;
  - (b) be made by electors of the district;
  - (c) contain the name, addresses and email address of the electors making the request, and the date each elector completed the petition;
  - (d) contain a summary of the reasons for the request;
  - (e) state the email address and name of the person upon whom, notice to the petitioners can be given;
  - (f) an electronic petition cannot be made for the following:
    - (i) a proposal to change the method of filling the office of President;
    - (ii) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.
- (3) A member may at the end of the business of petitions–
- (a) move that a matter be referred to a future Council or committee meeting for reporting; or
  - (b) where the matter is the subject of a report in the meeting agenda, move that a change be made to the order of business of the meeting to allow the matter to be debated immediately.

The person presiding will put the question without debate or may defer the question to a future council meeting.

### **3.7 Confirmation of Minutes**

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to-
  - (a) state the item or items with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

### **3.8 Announcements by the Person Presiding Without Discussion**

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to 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 person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

### **3.9 Reports**

- (1) The CEO is to use discretion in deciding what reports to place before the Council or a committee.
- (2) Where a Report contains a matter to be decided by the Council or committee, the CEO is, if the circumstances permit, to recommend a course of action to the Council or committee, or state the alternative courses of action available.
- (3) A member may move that a matter be the subject of a future report to a committee or that a matter under consideration by the Council be referred back to committee for additional reporting or consideration.
- (4) In outlining the reasons for the referral motion, the member should detail the nature of the additional information required and indicate a timeframe for the report to be forthcoming to the committee.
- (5) The person presiding shall seek advice from the CEO or the other employee as defined in the Act, in attendance at the meeting, as to the resources required to comply with the intent of the member's motion.
- (6) In the absence of a definitive answer, the person presiding can accept the motion subject to a further report by the CEO.

### **3.10 Motions of which Previous Notice has been Given**

- (1) Unless the Act, Regulations or these Standing Orders 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 seven (7) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO-
  - (a) with the concurrence of the President 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 the substance thereof as will bring the notice of motion into due 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.

- (5) A motion of which notice has been given is to lapse unless-
  - (a) the member who gave notice thereof 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.
- (6) If a notice of motion is given and lapses in the circumstances referred to in subclause (5)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

### **3.11 Questions by Members**

- (1) Members may ask questions relating to an item on the agenda or on matters related to the good governance of persons in the district.
- (2) At any time during the debate on a motion before the motion is put to the vote, a member may ask a question and, with the consent of the Presiding Member, may ask one or more further questions.
- (3) A member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.
- (4) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that the answer to the question be given to the member who asked it within 5 days.
- (5) Every Member question and answer—
  - (a) is to be brief and concise; and
  - (b) is not to be accompanied by argument or expression of opinion except to the extent necessary to explain the question or answer.
- (6) In answering any question, the CEO and any Officer may qualify their answer and may at a later time in the Meeting, or at a subsequent Meeting, alter, correct, add to or otherwise amend the original answer.

The person presiding will put the question without debate.

### **3.12 Delegate Reports Without Discussion**

- (1) At any meeting of the Council or a committee the person presiding may invite members to provide a written report on the activities of an external organisation or committee to which they are appointed as a Council delegate.
- (2) A member may move in relation to any matter arising from such a report –
  - (a) that the matter be referred to a future Council or committee meeting for reporting; or
  - (b) where a report on the matter is already contained in the agenda for that meeting, that the question be adjourned until during consideration of that report is considered.

### **3.13 Urgent Business Approved by Decision**

- (1) By decision of the members present, urgent business may be raised without notice. In all cases, the business must be of extreme or extenuating circumstances as defined in Council policy.
- (2) A motion recommending a matter be debated because of urgent circumstances must be moved and carried by a simple majority of members present before the urgent business will be considered.
- (3) Urgent business that is not the subject of a written employee report to the meeting should be referred to the CEO or other employee as defined with in the Act, in attendance at the meeting for a verbal report before debate on the matter commences.
- (4) A summary of the report and any recommendation of the CEO or other employee will be recorded in all cases in the minutes of the meeting.
- (5) The reason for a decision made at the meeting that is significantly different from the recommendation of the CEO or an employee as defined in section 5.70 of the Act, is to be recorded in the minutes.

## **PART 4 PUBLIC ACCESS TO AGENDA MATERIAL**

### **4.1 Inspection Entitlement**

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

### **4.2 Confidentiality of Information Withheld**

- (1) Information withheld by the CEO from members of the public as defined in the Regulations, is to be-
  - (a) identified in the agenda of a Council or committee meeting under the item "Matters behind closed doors"; 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.
- (3) Sub-clause (2) does not apply where a member or officer discloses the information to their lawyer or a government officer for the purpose of seeking advice in order to lawfully fulfill their roles and responsibilities.

## **PART 5 DISCLOSURE OF INTERESTS**

### **5.1 Disclosure of Interests**

Disclosures of interests is dealt with in the Act

## **PART 6 QUORUM**

### **6.1 Quorum for meetings**

The quorum for meetings is dealt with in the Act.

### **6.2 Reduction of quorum for Council Meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

### **6.3 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in the Act.

### **6.4 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

### **6.5 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the Presiding Member is:

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes:  
and
- (b) if a quorum is not present at the expiry of that period, the Presiding Member is to adjourn the meeting to some future time or date.

### **6.6 Names to be recorded**

At any meeting:

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum,

the name of the members then present are to be recorded in the minutes.

## **PART 7 KEEPING OF MINUTES**

### **7.1 Content of Minutes**

In addition to the matters contained in the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision.

## **7.2 Preservation of Minutes**

Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the Local Government and are to be transferred to the Public Records Office, being a directorate of the Library and Information Service of Western Australia, in accordance with the retention and disposal policy determined by that office from time to time.

## **PART 8 CONDUCT OF PERSONS AT COUNCIL AND COMMITTEE MEETINGS**

### **8.1 Official Titles to be Used**

Members of the Council are to speak of each other in the Council or committee by their respective titles of President or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

### **8.2 Members to Occupy Own Seats**

- (1) At the first meeting held after each ordinary election day, the CEO is to allot by a ballot process a position at the Council table to each councillor.
- (2) At the discretion of Council a councillor with an hearing and/or visual impairment can be allocated a position at the Council table so as not to be disadvantaged, and the positions allotted remain until such time as there is a call by a majority of councillors for a re-allotment of positions.
- (3) Each member must sit at their allocated position at each Council meeting.
- (4) Any members present as observers at a committee meeting must occupy seats that clearly distinguish the observing members from the voting members and are subject to the direction of the presiding member in this regard.

### **8.3 Leaving Meetings**

During the course of a meeting of the Council or a committee, no member is to leave or enter the meeting without first obtaining the acknowledgment of the person presiding, in order to facilitate the recording in the minutes of the time of departure or entry.

### **8.4 Adverse Reflection**

- (1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.
- (2) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.

### **8.5 Recording of Proceedings**

- (1) No person is to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.

- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

## **8.6 Prevention of Disturbance**

- (1) A person addressing Council or a Committee shall extend due courtesy and respect to Council or the Committee, and its Members, and the processes under which it operates, and shall comply with any direction by the Presiding Member.
- (2) A person shall not create a disturbance at a meeting.
- (3) In this clause, “create a disturbance” includes—
  - (a) using insulting, offensive or threatening language;
  - (b) behaving in an insulting, offensive or threatening manner;
  - (c) behaving in a disorderly way;
  - (d) acting in a manner that brings the Council or Committee into disrepute; or
  - (e) disrupting, disturbing, interfering with, or interrupting the meeting.
- (4) A person shall ensure that their mobile telephone and audible pager cannot be heard during any meeting.
- (5) If a person who fails to comply with this clause, the Presiding Member may warn that person to so comply.
- (6) If, after being warned by the Presiding Member under subclause (5), a person—
  - (a) again acts contrary to this clause, or to these Meeting Procedures; or
  - (b) refuses or fails to comply with a direction by the Presiding Member, the Presiding Member may order the person to leave the room.
- (7) A person who is ordered to leave the meeting room under subclause (6) and fails to do so may, by order of the Presiding Member, be removed from the meeting and from the premises.

## **8.7 Distinguished Visitors**

If a distinguished visitor is present at a meeting of the Council or a committee, the person presiding may invite such person to sit beside the person presiding or at the Council table.

# **PART 9 CONDUCT OF MEMBERS DURING DEBATE**

## **9.1 Members to Speak**

Every member of the Council wishing to speak is to indicate by a show of hand or other method agreed upon by the Council.

## **9.2 Priority**

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

### **9.3 The Person Presiding to Take Part in Debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

### **9.4 Relevance**

Every member of the Council or a committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

### **9.5 Limitation of Number of Speeches**

No member of the Council is to address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion or amendment, in reply, or a member in raising a point of order, or in explanation.

### **9.6 Limitation of Duration of Speeches**

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with agreement of a simple majority of members present.

### **9.7 Members Not to Speak After Conclusion of Debate**

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

### **9.8 Members Not to Interrupt**

No member of the Council or a committee is to interrupt another member of the Council or committee whilst speaking 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 10.16; or
- (d) to move a motion under clause 11.1(e).

### **9.9 Re-Opening Discussion on Decisions**

No member of the Council or a committee 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 changed.

## **PART 10 PROCEDURES FOR DEBATE OF MOTIONS**

### **10.1 Motions to be Stated**

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

## **10.2 Motions to be Supported**

No substantive motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required within the Regulations.

## **10.3 Unopposed Business**

- (1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the person presiding will immediately put the motion to the vote.

## **10.4 Only One Substantive Motion Considered**

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

## **10.5 Breaking Down of Complex Questions**

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

## **10.6 Order of Call in Debate**

The person presiding is to call speakers to a substantive motion or amendment in the following order-

- (a) The mover to speak to the motion;
- (b) A speaker against the motion;
- (c) The seconder to speak to the motion;
- (d) A speaker against the motion;
- (e) A speaker for the motion;
- (f) Other speakers against and for the motion, alternating in view, if any;
- (g) Mover takes right of reply, which closes debate.

## **10.7 Limit of Debate**

The person presiding may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

## **10.8 Member May Require Questions to be Read**

Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

## **10.9 Consent of Secunder Required to Accept Alteration of Wording**

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

### **10.10 Order of Amendments**

An amendment may be proposed to a motion, but when an amendment is moved to a substantive motion, no second amendment is to be moved or considered until the first amendment has been withdrawn or lost.

### **10.11 Amendments Must Not Negate Original Motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

### **10.12 Mover of Motion May Speak on Amendment**

On an amendment being moved, the mover of the substantive motion may speak to the amendment.

### **10.13 Substantive Motion**

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion on which any member may speak and any further amendment may be moved, and for the purpose of further debate –

- (a) the mover of the amendment which has been carried is deemed the mover of the new substantive motion and has a right of reply in accordance with clause 10.19; and
- (b) the mover of the original motion loses the right of reply.

### **10.14 Withdrawal of Motion and Amendments**

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

### **10.15 Limitation of Withdrawal**

Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the original mover and seconder, until the amendment proposed has been withdrawn or lost.

### **10.16 Personal Explanation**

- (1) No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation.
- (2) 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 comments made by the member in an earlier speech, which may have been misunderstood.
- (3) When a member of the Council or committee rises to explain, no reference is to be made to matters unnecessary for that purpose.

### **10.17 Personal Explanation-When Heard**

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

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

The ruling of the person presiding on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

### **10.19 Right of Reply**

- (1) The mover of a substantive motion or amendment has the right of reply. After the mover of the substantive motion or amendment has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

### **10.20 Right of Reply Provisions**

The right of reply is governed by the following provisions-

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
- (b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any lost amendment, subject to all members having exercised an opportunity to speak to the motion under clause 9.5;
- (c) the mover of an amendment may exercise the right of reply. This does not negate the circumstances mentioned in clause 10.13;
- (d) once the right of reply has been taken, there can be no further discussion on that motion and the original motion or the original motion as amended is immediately put to the vote.

## **PART 11 PROCEDURAL MOTIONS**

### **11.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions-

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;

- (e) that the member be no longer heard;
- (f) that the ruling of the person presiding be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

## **11.2 No Debate on Procedural Motions**

- (1) The mover of a motion stated in each of paragraphs (a), (b), (c), (f) and (g) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) (a) A member may only move a motion stated in paragraph (d) of clause 11.1 after two speakers for and two speakers against the substantive motion have been heard, inclusive of the mover and seconder.  
  
The mover may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (3) The mover of a motion stated in paragraph (e) of Clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

## **11.3 Procedural Motions - Closing Debate - Who May Move**

No person, who has moved, seconded, or spoken for or against the substantive motion or any amendment, may move any procedural motion that if carried, would close the debate on the substantive motion or amendment.

## **11.4 Procedural Motions -Right of Reply on Substantive Motion**

The carrying of a procedural motion which closes debate on the substantive motion or amendment and forces a decision on the substantive motion or amendment does not deny the right of reply to the mover of the substantive motion.

# **PART 12 EFFECT OF PROCEDURAL MOTIONS**

## **12.1 Council (or Committee) to Proceed to the Next Business-Effect of Motion**

- (1) The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting.
- (2) No decision will be made on the substantive motion being discussed as there is no requirement for the matter to again be raised for consideration.

### **12.2 Question to be Adjourned -Effect of Motion**

- (1) The motion 'that the question be adjourned', if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council-
  - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and,
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

### **12.3 Council (or Committee) to Now Adjourn-Effect of Motion**

- (1) The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon a vote, determine otherwise.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1)-
  - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting-
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

### **12.4 Question to be Put-Effect of Motion**

- (1) The motion “that the question be now put” if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.
- (2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

### **12.5 Member to be No Longer Heard -Effect of Motion**

The motion 'that the member be no longer heard', if carried, causes the person presiding to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

### **12.6 Ruling of the Person Presiding Disagreed With -Effect of Motion**

The motion 'that the ruling of the person presiding be disagreed with', if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

## **12.7 Council (or Committee) to Meet Behind Closed Doors -Effect of Motion**

- (1) This motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting the person presiding is to cause to be read out, in relation to decisions made by the Council or committee behind closed doors –
  - (a) the recommendation of the CEO or an employee as defined in section 5.70 of the Act in regard to a matter decided by the meeting;
  - (b) details of each motion moved at the meeting, the mover and outcome of the motion;
  - (c) details of each decision made at the meeting;
  - (d) reasons for each decision made at the meeting that is significantly different from the relevant recommendation of the CEO or an employee as defined in section 5.70 of the Act; and
  - (e) the names of members voting against a motion or decision.
- (4) The matters to be read out under subclause (3) are to be recorded in the minutes of the meeting.
- (5) A person who is a Council member, a committee member, or an employee is not to publish, or make public any of the discussion on a matter discussed behind closed doors, excluding the actual decision made as a result of such discussion and other information properly recorded in the minutes of the meeting.

## **PART 13 MAKING DECISIONS**

### **13.1 Question - Repeated before being Put**

When the debate upon any question is concluded and the right of reply has been exercised, the person presiding shall immediately put the question to the Council or the committee, and, if so desired by any member of the Council or committee, shall again state the question.

### **13.2 Question -Method of Putting**

If a decision of the Council or a committee is unclear or in doubt, the person presiding shall put the motion or amendment as often as necessary to determine the decision from a show of hands, before declaring the decision.

### **13.3 Recording of Councillors Voting Against A Motion**

The names of councillors voting against a motion, amendment or procedural motion shall be recorded in the minutes.

## **PART 14 IMPLEMENTING DECISIONS**

### **14.1 Implementation of a Decision**

- (1) 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 steps are 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 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 motion is of no effect unless the number of members required to support the motion as defined in the Regulations indicate their support for the 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 as defined in the Regulations.
- (2) Implementation of a decision is only to be withheld under sub-clause (1) 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.
- (3) 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 moved 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 or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so; or
  - (c) without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

## **PART 15 PRESERVING ORDER**

### **15.1 The Person Presiding to Preserve Order**

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

## **15.2 Demand for Withdrawal**

- (1) The person presiding may require a member at a meeting of the Council or a committee, or by a decision of the Council or committee, to apologize and unreservedly withdraw any expression that is considered to reflect offensively on another member or an employee.
- (2) If the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.
- (3) If a member persists in any conduct that the Presiding Member had ruled is out of order, the Presiding Member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member must comply with that direction.

## **15.3 Points of Order -When to Raise – Procedure**

- (1) Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker.
- (2) A member, who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the person presiding listens to the point of order.

## **15.4 Points of Order - When Valid**

The following are to be recognised as valid points of order-

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, policy or code of conduct prepared or adopted under section 5.103 of the Act, of the Local Government, provided that the member making the point of order states the written law, policy, or code of conduct believed to be breached.

## **15.5 Points Of Order - Ruling**

The person presiding is to give a decision on any point of order that is raised, by either upholding or rejecting the point of order.

## **15.6 Points of Order-Ruling Conclusive, Unless Dissent Motion is Moved**

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

## **15.7 Points of Order Take Precedence**

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

### **15.8 Precedence of Person Presiding**

- (1) When the person presiding rises during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately sit down.
- (2) Every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.
- (3) Subclause (1) and (2) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.

### **15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order**

- (1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order.
- (2) Upon resumption, debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.
- (4) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting-
  - (a) the names of members who have spoken on the matter prior to the adjournment are to be recorded; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

## **PART 16 ADJOURNMENT OF MEETING**

### **16.1 Meeting May be Adjourned**

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day.

### **16.2 Limit to Moving Adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee.

### **16.3 Unopposed Business-Motion for Adjournment**

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of any unopposed business documented on the agenda.

### **16.4 Withdrawal of Motion for Adjournment**

The mover, with the consent of the seconder may withdraw a motion or an amendment relating to the adjournment of the Council or a committee, except that if any member objects to the withdrawal, debate of the motion or amendment is to continue.

## **16.5 Time To Which Adjourned**

The time to which a meeting is adjourned for want of a quorum by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day.

## **PART 17 COMMITTEES OF THE COUNCIL**

### **17.1 Establishment and Appointment of Committees**

A committee is not to be established except on a motion setting out the proposed functions of the committee and either-

- (a) the names of the Council members, employees and other persons to be appointed to the committee; or
- (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

### **17.2 Appointment of Deputy Committee Members**

- (1) The Council may appoint members as deputies to act on behalf of a member of a committee whenever a member is unable to be present at a meeting. Where deputies are so appointed they are to have seniority in the order determined by the Council.
- (2) Where a member of a committee is unable to be present at a meeting of the committee, a deputy for that member selected according to seniority is entitled to attend that meeting in place of the member and to act for the member and while so acting has all the powers of that member.

### **17.3 Reports of Committees - Questions**

When the Council receives a recommendation for adoption from any committee, any member of the Council may direct questions directly relating to the recommendation through the person presiding to a delegate of the Council to that committee or, in the case of a committee of the Council, to the presiding member or any member of the committee in attendance.

### **17.4 Permissible Motions on Recommendation From Committee**

The Council with or without amendment or modification may adopt a recommendation made by or contained in the minutes of a committee meeting, failing which, it may be-

- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to the committee for further consideration.

## **17.5 Standing Orders Apply to Committees**

- (1) Where not otherwise specifically provided, these Standing Orders apply to the proceedings of committees and generally to briefing sessions, except that the following Standing Orders do not apply to the meeting of a committee or briefing sessions-
  - (a) clause 8.2, in regard to seating;
  - (b) clause 9.1, in respect of members to speak;
  - (c) clause 9.5, limitation on the number of speeches;
  - (d) clause 10.6, order of call in debate.
- (2) The person presiding at a committee meeting or briefing session may, at his or her discretion, apply one or all of the provisions contained in clauses 8.2, 9.1, 9.5 and 10.6 of these Standing Orders as the occasion may require.

## **PART 18 MEETING TO HEAR PUBLIC SUBMISSIONS**

### **18.1 Council may meet to hear public submissions**

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) Where a resolution is made under subclause (1), the CEO and the President shall set the time and date of the meeting to provide the opportunity to be heard.
- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall—
  - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
  - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 3.5 to make a deputation on the issue; and
  - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The Council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
- (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.

- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

## **PART 19 ADMINISTRATIVE MATTERS**

### **19.1 Suspension of Standing Orders**

- (1) The Council or committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended and the purpose of the suspension.
- (3) The clause or clauses suspended remain so until a motion reapplying the Standing Order clause or clauses is carried, by a simple majority vote. In any event, such suspension will only remain in force until the end of the Council or committee meeting to which the suspension clause applied.

### **19.2 Cases not Provided for in Standing Orders**

- (1) The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent.
- (2) The decision of the person presiding is final, except where a motion is moved and carried under clause 11.1 (f).

## **PART 20 COMMON SEAL**

### **20.1 The Council's Common Seal**

- (1) The CEO is to have charge of the common seal of the Local Government and is responsible for the safe custody and proper use of it.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically. The President and the CEO, or a senior employee authorised by him or her must sign every document to which the seal is affixed.
- (3) The common seal of the Local Government is to be affixed to any local law that is made by the Local Government.
- (4) The CEO is to record in a register each date on which the common seal of the Local Government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.

## **PART 21 BRIEFINGS AND OTHER INFORMAL MEETINGS**

### **21.1 Briefings and other informal meetings**

- (1) The Council may conduct briefings, workshops and other informal meetings.
- (2) Where the Council conducts briefings, workshops and other informal meetings, the CEO–
  - (a) is to advise all Members of the time, date and place of the meeting; and
  - (b) may request notes of the meeting to be kept.
- (3) A member who has an interest in a matter to be discussed at a briefing, workshop or other informal meeting is to deal with the interest in accordance with the provisions of Part 5 of these Standing Orders.
- (4) The Council is not to make a formal resolution at any meeting other than at a Council Meeting or at a meeting of a committee which has delegated authority to do so.
- (5) The Council is not to meet except at–
  - (a) a Council or committee meeting;
  - (b) a briefing, workshop or informal meeting under this clause; or
  - (c) a meeting to hear public submissions convened under clause 18.1

## **PART 22 PENALTIES**

### **22.1 Penalties**

- (1) The maximum penalty in respect of an offence involving a breach of this Local Law shall be \$5,000.
- (2) Subject to subclause (1), any person who commits a first offence under this Local Law shall be subject to a minimum penalty of \$100 and a maximum penalty of \$1,000.
- (3) A minimum penalty referred to in subclause (2) shall increase in severity by 100% for each successive breach of the same provision by the same offender but shall not in any event exceed the maximum provided in subclause (1).

Dated this 25<sup>th</sup> day of May 2016

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



V.BROWN  
Shire President



W.M. SCOTT  
Chief Executive Officer