



CITY OF  
**MONASH**

**LOCAL LAW NO. 1**  
**MEETING PROCEDURES**

## INDEX

CLAUSE	PAGE
<b>Part 1 – Preliminary .....</b>	<b>3</b>
1. Title.....	3
2. Commencement .....	3
3. Objectives .....	3
4. Definitions and Interpretations .....	3
<b>Part 2 – Fundamentals of <i>Meetings</i> .....</b>	<b>6</b>
5. Chairperson and Acting Chairperson .....	6
6. Quorum.....	6
7. Failure to obtain/retain a quorum .....	6
8. Agenda for Ordinary and Special Meetings .....	7
9. Time limits for <i>Meetings</i> .....	7
10. Adjournments of meetings .....	7
<b>Part 3 – Arrangement of business at <i>Meetings</i> .....</b>	<b>9</b>
11. Order of business .....	9
12. Disclosure of interests and conflicts of interest.....	9
13. Confirmation of minutes.....	10
14. Petitions, Joint Letters and Memorials .....	10
15. Public Question Time at an Ordinary Meeting.....	10
16. Consideration of reports of officers.....	12
17. Consideration of reports of <i>Council</i> Committees .....	12
18. <i>Notices of motion</i> .....	12
19. Urgent Business.....	13
20. <i>Councillors'</i> Reports .....	13
21. Personal explanations .....	14
22. Matters of <i>Council</i> Importance.....	14
23. Confidential Business .....	14
<b>Part 4 – Decision-making at <i>Meetings</i> .....</b>	<b>16</b>
24. Motions.....	16
25. Procedure for moving a motion .....	16
26. Amendments to a motion.....	17
27. Conduct of debate .....	17
28. Participation by the <i>Chairperson</i> in debate .....	18
29. Adjournment of debate on a motion .....	18
30. Points of order .....	19
31. Dissent from the <i>Chairperson's</i> ruling.....	20

32.	Questions To <i>Councillors</i> and officers.....	20
33.	Voting.....	21
34.	Divisions.....	21
35.	Revocation of previous resolutions .....	21
<b>Part 5 – Miscellaneous.....</b>		<b>22</b>
36.	Demand documents .....	22
37.	Procedure Generally .....	22
38.	Recording of <i>Meetings</i> .....	22
39.	Application to <i>Special Committees</i> .....	22
<b>Part 6 – Removal from <i>Council Chamber</i> and Offences .....</b>		<b>23</b>
40.	Offences.....	23
41.	Removal from <i>Council Chamber</i> .....	23
42.	Infringement Notices Generally .....	23
43.	Withdrawing an Infringement Notice.....	24
<b>Part 7 – Election of Mayor.....</b>		<b>25</b>
44.	Election of Mayor.....	25

# City of Monash Local Law No. 1 Meeting Procedures

## Part 1 – Preliminary

Part 1 introduces the local law, by specifying its title, when it begins and ends, what objectives are being pursued and how the local law should be interpreted.

### 1. Title

- (1) This Local Law may be cited as Local Law No 1 Meeting Procedures.
- (2) The City of Monash Local Law No 1 Meeting Procedures (made pursuant to a resolution of 19 May 1998 and confirmed on 30 June 1998 ) is revoked.

### 2. Commencement

- (1) This Local Law comes into operation on the day after the day on which it is made.
- (2) Unless earlier revoked this Local Law will end 10 years from the date of its final adoption by *Council*.

### 3. Objectives

The principal objective of this Local Law is to provide for the orderly, fair and effective conduct of meetings of *Council* and *Special Committees*, and to provide for the election of the Mayor and *Chairpersons* of *Special Committees*.

### 4. Definitions and Interpretations

- (1) In this local law, unless inconsistent with the context:

“*Act*” means the *Local Government Act* 1989.

“*Advisory Committee*” means a established by *Council* under section 86 of the *Act* which is not a *Special Committee*.

“*Authorised Officer*” means a person appointed under section 224 of the *Act*.

“*Chairperson*” means the *Councillor* referred to in clause 5 as taking the chair at a *Meeting*.

“*Council*” means Monash City Council.

“*Councillor*” means a *Councillor of Council*.

“*Division*” means the formal count of those members of *Council* voting for or against a motion and the recording of that count and the way each *Councillor* voted in the minutes of a *Meeting*.

“*Council Chamber*” means the space or room, in its entirety, designated as the area in which a formal meeting of *Council* is to be conducted, inclusive of the *Public Gallery*.

“*Public Gallery*” means the area set aside in the *Council Chamber* for the public and includes the area outside of the *Council Chamber* which is within sight of the *Council Chamber*.

“*Meeting*” means a meeting of *Council*.

“*Municipal District*” means the municipal district of *Council*.

“*Notice of Motion*” means a motion of which prior notice has been given in accordance with the requirements of this local law.

“*Penalty Unit*” has the same meaning as in section 110 of the *Sentencing Act 1991*, the value of which is governed by the *Monetary Units Act 2004*.

“*Procedural Motion*” means a motion that:

- (a) debate be adjourned to a later hour or another *Meeting*;
- (b) debate be adjourned indefinitely;
- (c) a question lay on the table;
- (d) a question now be put;
- (e) a question not now be put;
- (f) the speaker no longer be heard;
- (g) an extension of time be granted;
- (h) a *Councillor* be permitted to speak again on the motion;
- (i) *Council* proceed to the next business on the agenda;
- (j) *Council* move into Confidential Business by closing the *Meeting* to members of the public;
- (k) "open" *Council* be resumed, so that the *Meeting* no longer be closed to members of the public;
- (l) a matter be admitted as Urgent Business;
- (m) a petition, joint letter or memorial be received;
- (n) a *Councillor* leave the *Council Chamber* for the remainder of a *Meeting* in accordance with clause 41(4); or

(o) relates to the process of a *Meeting* and which *Council* resolves is a "Procedural Motion" for the purposes of this local law.

"*Ratepayer*" means a person who is liable to pay rates to *Council* during the current financial year.

"*Resident*" means a person who resides in the *Municipal District*.

"*Special Committee*" means a Special Committee established as such by *Council* under section 86 of the *Act*.

"*Substantive Motion*" means a motion which is not a *Procedural Motion*.

(2) Introductions to Parts, headings and notes are explanatory only and do not form part of this local law. They are provided to assist understanding.

## Part 2 – Fundamentals of *Meetings*

Part 2 deals with the fundamentals of *Meetings* – who chairs them, when a quorum is present, agendas, time limits and when a *Meeting* is or can be adjourned.

### 5. Chairperson and Acting Chairperson

- (1) The Mayor must take the chair at all *Meetings* at which he or she is present.
- (2) If the Mayor is unable to take the chair at a *Meeting*, the Deputy Mayor, if one has been appointed by *Council*, must take the chair.
- (3) If *Council* has not appointed a Deputy Mayor, or if the Deputy Mayor is unable to take the chair, a *Councillor* must be appointed by resolution of *Council* as acting *Chairperson*.

### 6. Quorum

- (1) A quorum of *Council* is a majority of the number of the *Councillors* capable of being elected to *Council* (at that time).
- (2) A quorum of a *Special Committee* is a majority of the members of such *Special Committee* or as otherwise resolved by *Council*.

### 7. Failure to obtain/retain a quorum

- (1) If half an hour after the time for the opening of a *Meeting*, *Council* has failed to obtain a quorum, the *Chairperson*, or, in his/her absence, the Chief Executive Officer, may adjourn the *Meeting* to a time not more than seven (7) days after the time appointed for the holding of the *Meeting*.
- (2) If, during the course of a *Meeting*, it becomes apparent to the *Chairperson* that it will not be possible to maintain a quorum because one or more of the *Councillors* present is prohibited from voting because of a conflict of interest in an item of business, that item of business will be adjourned until circumstances permit the matter to be dealt with by *Council*.
- (3) Subject to section 85 of the *Act*, if, during the course of a *Meeting*, insufficient *Councillors* are in the *Council Chamber* to transact the business before the *Meeting*, the *Meeting* will be adjourned for a period of up to 30 minutes. If after that time a quorum has not been regained, the *Chairperson*, or, in his/her absence, the Chief Executive Officer, may adjourn the *Meeting* to a time not more than seven (7) days later than the time fixed for the commencement of the *Meeting*.
- (4) Upon resumption of the *Meeting*, debate will continue from the point that it was adjourned.

## 8. Agenda for Ordinary and Special Meetings

- (1) The Chief Executive Officer must distribute the agenda for an ordinary or special meeting of *Council* to every *Councillor* no less than four days before the *Meeting*.
- (2) The Chief Executive Officer may send an agenda for a special meeting of *Council* to *Councillors* less than four days before the *Meeting* if the Chief Executive Officer considers that, in view of the urgency of the circumstances, this should occur.
- (3) No business intended to commit *Council* to a decision may be conducted at an ordinary meeting of *Council* unless notice of that business has been given by inclusion in the agenda or any report accompanying the agenda or in a *Notice of Motion*.
- (4) Notwithstanding sub-clause (3), business not included in the agenda or a report accompanying the agenda of an ordinary meeting of *Council* may be considered if *Council* resolves to admit (without notice) an item considered to be Urgent Business (not being a matter where the law otherwise requires that notice be given).<sup>1</sup>

## 9. Time limits for Meetings

- (1) A *Meeting* must not continue after 10.00pm unless a majority of *Councillors* present vote in favour of its continuance.
- (2) If *Council* resolves to continue the *Meeting* past 10.00pm:
  - (a) it must stipulate the length of time of the continuation of the *Meeting* in that resolution; and
  - (b) the *Meeting* must end at the time stipulated in the resolution unless, *Council* resolves to further continue the *Meeting* (in which case the *Meeting* will continue until the time stipulated by *Council* for ending the *Meeting* is reached unless a further continuation is resolved upon).
- (3) Unless a decision is made to extend a *Meeting* under sub-clauses (1) and (2) and the business for that *Meeting* has not been concluded, the *Meeting* must be adjourned by the *Chairperson* to a specific time, date and place, but no later than seven (7) days after the date on which the *Meeting* was adjourned.
- (4) The Chief Executive Officer must give notice to each *Councillor* of the date, time and place to which the *Meeting* stands adjourned, and of the business remaining to be considered.

## 10. Adjournments of meetings

- (1) A *Meeting* may be adjourned by the moving and passing of a motion to adjourn.

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<sup>1</sup> Non-agenda business at special meetings is addressed by section 84(4) of the *Act*.

- (2) If a *Meeting* is adjourned, the motion must be to reconvene at a date not more than seven (7) days from the date of the adjournment
- (3) Any motion to adjourn a *Meeting* must include the time, date and location of the proposed resumption of the *Meeting*.
- (4) If the *Chairperson* is of the opinion that disorder in the *Council Chamber* (including but not limited to the *Public Gallery*) makes it desirable to adjourn the *Meeting*, he or she may adjourn the *Meeting* to a later time on the same day or to some later day as he or she thinks proper.

### Part 3 – Arrangement of business at *Meetings*

Part 3 explains the order of business which will normally be followed at an ordinary meeting (clause 11) and includes a description of each item of business (clauses 12 to 23 inclusive). Some of these items of business will also be relevant to special meetings of *Council*.

#### 11. Order of business

Unless the *Meeting* otherwise resolves, the business of an ordinary meeting is to be as follows, and is to be conducted in the following sequence:

- (a) apologies;
- (b) disclosures of interests and conflicts of interest;
- (c) confirmation of the minutes of the previous *Meeting*;
- (d) reception and reading of petitions, joint letters and memorials;
- (e) public question time;
- (f) consideration of reports of officers
- (g) consideration of written reports of *Council* committees;
- (h) Notices of Motion submitted by *Councillors*;
- (i) Urgent Business;
- (j) *Councillors' Reports* (including reports of delegates appointed by *Council* to other bodies or *Council* Committees);
- (k) Personal Explanations;
- (l) Matters of *Council* Importance; and
- (m) Confidential Business.

#### 12. Disclosure of interests and conflicts of interest

- (1) As soon as practicable after disclosing an interest or conflict of interest, a *Councillor* must make a signed declaration describing the item of business in which the interest has been disclosed and the nature of that interest.
- (2) The Chief Executive Officer must append every such declaration to the minutes of the *Meeting*.
- (3) The minutes of the *Meeting* must contain a statement showing:
  - (c) that the disclosure was made;

- (d) the item of business in respect of which the disclosure was made;
- (e) the nature of the *Councillor's* interest or conflict of interest; and
- (f) whether the *Councillor* making the disclosure was present at the *Meeting* during voting on the item of business.

### **13. Confirmation of minutes**

- (1) At a *Meeting* the minutes of the preceding *Meeting* must be dealt with as follows:
  - (a) if the minutes have been distributed to each *Councillor* at least four (4) days before the *Meeting*, the putting of a motion for confirmation of the minutes; or
  - (b) if the minutes have not been so distributed, the minutes may be read and a motion put for confirmation of the minutes.
- (2) No discussion is permitted on the minutes except as to their accuracy as a record of proceedings.
- (3) Once the minutes have been confirmed, they must be signed by the *Chairperson*.

### **14. Petitions, Joint Letters and Memorials**

If a petition, joint letter or memorial is presented to *Council* a *Procedural Motion* may be moved to receive the petition, joint letter or memorial and to ensure that the issues raised in it are considered at the appropriate time by:

- (1) *Council*; or
- (2) a member of *Council* staff who has been or is delegated the power to consider the issues.

### **15. Public Question Time at an Ordinary Meeting**

- (1) Public Question Time will be provided for at an ordinary meeting of *Council*.
- (2) For Public Question Time, only members of the public who are *Ratepayers* or *Residents* may, in accordance with this clause, submit questions to *Council*.
- (3) Questions submitted to *Council* must:
  - (a) be in writing;
  - (b) specify the name and address of the person submitting the question; and

- (c) be in a form approved by *Council*.
- (4) All questions must be received by no later than noon of the working day prior to the *Meeting*.
- (5) A person must not submit more than one (1) question for any one *Meeting* and the length of that question must not exceed 100 words in total.
- (6) A question is not to be read unless the person who submitted it is in the *Public Gallery* at the time.
- (7) The *Chairperson* must not permit a question unless it relates to a matter or matters on the current or immediately previous ordinary *Council Meeting* agenda.
- (8) The *Chairperson* may:
  - (a) read the question;
  - (b) request the person who submitted the question to read the question;
  - (c) permit the question to be read out by another member of the public, on behalf of the person submitting the question; or
  - (d) direct a member of *Council* staff to read the question.
- (9) The *Chairperson* may disallow a question if:
  - (a) the question relates to a matter outside the duties, functions and powers of *Council*;
  - (b) the question is defamatory, indecent, abusive, offensive, irrelevant, trivial or objectionable in language or substance;
  - (c) the question deals with an issue which has already been dealt with in an answer;
  - (d) the question is intended to embarrass a *Councillor* or member of *Council* staff;
  - (e) the question relates to any matter that is of a confidential nature under the *Act*, a *Council* policy or any relevant resolution of *Council*; or
  - (f) *Council* considers that answering the question would prejudice *Council* or another person.
- (10) All questions and answers must be succinct, and no discussion is to be allowed other than for the purpose of clarification.
- (11) The *Chairperson* may nominate a *Councillor*, the Chief Executive Officer or a member of *Council* staff nominated by the Chief Executive Officer to answer a question.

- (12) A *Councillor* or member of *Council* staff may:
- (a) require that the question be put on notice until the next ordinary meeting of *Council*, at which time the question is to be answered; or
  - (b) elect to submit a written answer to the person asking the question.
- (13) A *Councillor* or member of *Council* staff may advise the *Chairperson* that, in his or her opinion and for specified reasons, the answer to a question should be given in a *Meeting* closed to members of the public. Unless *Council* resolves to the contrary, the answer must then be given in that manner.
- (14) A question submitted in writing by a member of the public which has been disallowed by the *Chairperson* will be available to any *Councillor* on request.
- (15) Question Time is limited to twenty (20) minutes, unless *Council* resolves otherwise.
- (16) Questions not dealt with in Public Question Time will be responded to in writing within a reasonable time.

#### **16. Consideration of reports of officers**

- (1) The initial motion for debate on a matter that is the subject of a report from a member of *Council* staff is the recommendation in that report.
- (2) A *Councillor* may move to defer consideration of a report from a member of *Council* staff.

#### **17. Consideration of reports of *Council* Committees**

- (1) The initial motion for debate on a matter that is the subject of a report from an *Advisory Committee* or a *Special Committee* is the recommendation in that report.
- (2) A *Councillor* may move to defer consideration of a report from an *Advisory Committee* or a *Special Committee*.

#### **18. Notices of motion**

- (1) A *Councillor* must not propose a *Substantive Motion* during a *Council Meeting* unless notice has been given on the agenda for that *Meeting* or as otherwise provided for in this local law.
- (2) A *Notice of Motion* must be in writing, dated and submitted by the intending mover.
- (3) *Notices of Motion* must be given to the Chief Executive Officer before midday on the day that the agendas are normally distributed to *Councillors*.

- (4) The Chief Executive Officer must date and number all *Notices of Motion* in the order received and enter them in the '*Notice of Motion*' Book.
- (5) Once lodged with the Chief Executive Officer, a *Notice of Motion* cannot be withdrawn unless, before noon on the day on which the relevant agenda is to be distributed, the *Councillor* who lodged the *Notice of Motion* advises the Chief Executive Officer that it is to be withdrawn.
- (6) If a *Councillor* who has given a *Notice of Motion* is absent from the *Meeting*, or fails to move the motion when called upon by the *Chairperson*, any other *Councillor* may move the motion or may move to defer consideration of it.
- (7) Except by leave of *Council*, motions must be moved in the order in which they are entered in the '*Notice of Motion*' Book.
- (8) If a *Notice of Motion* is not moved or deferred when it comes before the *Meeting*, it lapses.
- (9) Unless *Council* resolves to re-list a *Notice of Motion* that has been lost, a similar motion must not be put before *Council* until at least three (3) *Meetings* have been held since the *Meeting* at which it was lost.
- (10) The initial motion for debate on a matter that is the subject of a *Notice of Motion* is the text of that *Notice of Motion*.

## 19. Urgent Business

- (1) No *Substantive Motion* must be accepted by the *Chairperson* on any matter that does not appear on the agenda or a report accompanying the agenda unless it concerns an item that is determined by *Council* to be an item of Urgent Business.
- (2) To deal with an item of Urgent Business, *Council* must pass a *Procedural Motion* to admit the item as an item of Urgent Business.
- (3) In moving a *Procedural Motion* for admission of an item as Urgent Business, a *Councillor* must be allowed sufficient time to briefly explain why the matter should be dealt with immediately.
- (4) A motion dealt with under Urgent Business must be in writing and made available to all *Councillors*.

## 20. Councillors' Reports

- (1) Subject to sub-clause (5) -
  - a) a *Councillor* who has been appointed to an *Advisory Committee* or a *Special Committee* or a body external to *Council* may report to *Council* from time to time on the operations, findings and decisions of that *Advisory Committee* or *Special Committee* or body external to *Council*.

b) a *Councillor* may report on their attendance at or participation in a civic event of community interest.

- (2) A report may be verbal or written.
- (3) At the discretion of the *Chairperson*, other *Councillors* appointed to an *Advisory Committee*, *Special Committee* or body external to *Council* may provide additional information at the time of the report.
- (4) While questions may be asked on the matters reported, no debate on these matters will be permitted.
- (5) A *Councillor* cannot, under sub-clause (1), report on any matter that has, at the *Meeting*, already been the subject of a written report from an *Advisory Committee* or a *Special Committee*.

## 21. Personal explanations

- (1) A *Councillor* may, at the time allocated within the order of business or at another time determined by the *Chairperson*, make a brief personal explanation in respect of any statement (whether made at a *Council Meeting* or not) affecting the *Councillor* in their role as a *Councillor*.
- (2) The *Chairperson* may determine that a personal explanation commenced during a debate be deferred to another time during the *Meeting* if the personal explanation is, in the opinion of the *Chairperson*, irrelevant or insufficiently relevant to the debate.
- (3) A personal explanation must not be debated.

## 22. Matters of Council Importance

- (1) Where:
  - (a) a *Councillor* believes that there is a matter of general importance that should be brought to the attention of *Council*; and
  - (b) the matter has been listed on the agenda for the *Meeting*,
 that *Councillor* may raise the matter and address *Council* accordingly.
- (2) The *Chairperson* may determine that the matter is not of general importance and request that the *Councillor* resume his or her seat.
- (3) Each *Councillor* may contribute to discussion and debate on any matter raised under sub-clause (1).

## 23. Confidential Business

- (1) No business can be transacted as Confidential Business unless *Council* first resolves to close the *Meeting* to members of the public.

- (2) If, following the conclusion of Confidential Business, *Council* so resolves, the *Meeting* will again be open to members of the public.

## Part 4 – Decision-making at *Meetings*

Part 4 is concerned with the "rules of debate" at *Meetings*. Particular attention is given to motions, the conduct of the debate, the role of the *Chairperson*, points of order, questions during debate and voting.

### 24. Motions

- (1) Motions must be clear and unambiguous and not be defamatory or objectionable in language or nature.
- (2) The *Chairperson* may require motions to be put in writing.
- (3) Unless resolved otherwise by *Council*, printed motions previously circulated to Councillors need not be read out in full.
- (4) *Procedural Motions* must not be debated.

### 25. Procedure for moving a motion

- (1) Once a motion is moved, the *Chairperson* must call for a seconder.
- (2) If there is no mover or seconder the motion lapses.
- (3) The mover and the seconder have a right to speak first and second respectively, but can instead speak at a later point during debate on the motion.
- (4) The *Chairperson* will call on any other *Councillor* who wishes to speak on the motion to do so. Unless as a result of a *Procedural Motion* it is resolved otherwise, the motion must not be put to the vote until all Councillors wishing to speak on the motion have done so.
- (5) Subject to sub-clauses (6) and (9), a *Councillor* may speak only once on the motion.
- (6) The mover of the motion has a right of reply if they have spoken first on the motion.
- (7) If the mover of the motion has exercised the right of reply, the motion must immediately be put to the *Meeting* for a decision.
- (8) The mover of a motion must not introduce new material when exercising any right of reply.
- (9) A *Councillor* may be permitted by *Procedural Motion* to speak more than once to a motion.
- (10) A *Councillor* calling the attention of the *Chairperson* to a point of order is not regarded as speaking to a motion or the amendment.
- (11) No motion may be withdrawn without the consent of the *Meeting*.

## 26. Amendments to a motion

- (1) An amendment to a motion before *Council* must relate to the specific words to be deleted, altered or inserted.
- (2) An amendment cannot be a direct negative of a motion.
- (3) The *Chairperson* will seek permission from the mover and the seconder in the first instance, and then *Council* as a whole, for any proposed amendment.
- (4) If no *Councillor* objects under sub-clause (3) the motion before *Council* will be amended without the need to proceed with a formal amendment motion.
- (5) If one or more *Councillors* objects under sub-clause (3) the formal amendment process detailed in the rest of this clause will apply.
- (6) Any *Councillor*, except the mover or seconder of the original motion, may move or second an amendment.
- (7) Amendments must be dealt with one at a time and in the order received by the *Chairperson*.
- (8) An amendment must not be considered until any previous amendment has been decided upon.
- (9) No amendment may be withdrawn without the consent of *Council*.
- (10) A *Councillor* may speak once on any amendment whether or not they have spoken to the motion.
- (11) There is no right of reply for the mover of an amendment.
- (12) Prior to an amendment being put to the vote the *Chairperson* must attempt to ensure that the amendment is clearly understood by all *Councillors*.
- (13) Where practicable, amendments must be in writing.
- (14) Where an amendment is carried, the motion as amended then becomes the *Substantive Motion* to be considered.
- (15) The amended *Substantive Motion* must, subject to this local law, continue to be debated until resolution.

## 27. Conduct of debate

- (1) Councillors must address each other by their official titles.
- (2) A *Councillor* must address the *Chairperson* to move a motion, amendment or take part in debate, unless granted dispensation by the *Chairperson*.

- (3) Once acknowledged by the *Chairperson*, the *Councillor* has the floor and must not be interrupted unless called to order or sub-clauses (9) and (10) apply.
- (4) If there is competition for the right to speak, the *Chairperson* must determine the order in which *Councillors* will be heard.
- (5) A *Councillor* must not:
  - (a) digress from the subject of the matter being debated; or
  - (b) impute improper motives or make personal reflections on a *Councillor* or committee member.
- (6) All speaking times, other than for the exercise of a mover's right of reply, *Councillors' Reports* and Matters of *Council* Importance, will be for a maximum of five (5) minutes.
- (7) The maximum speaking time for the exercise of a mover's right of reply, *Councillors' Reports* and Matters of *Council* Importance will be three (3) minutes.
- (8) An extension of time of up to three (3) minutes may be granted to a *Councillor*, upon resolution of *Council*.
- (9) A *Councillor* must not be interrupted except by the *Chairperson* or upon a point of order.
- (10) If a *Councillor* is interrupted by the *Chairperson* or upon a request for a point of order, that *Councillor* must remain silent until the *Chairperson* has ceased speaking, the point of order has been defined and decided.
- (11) A *Councillor* who has been requested by the *Chairperson* to resume his or her seat must comply with that request.

## **28. Participation by the *Chairperson* in debate**

- (1) The *Chairperson* may address a *Meeting* upon any issue under consideration.
- (2) If the *Chairperson* participates in a debate before *Council*, all of the provisions in this local law concerning the conduct of the debate apply to the *Chairperson*.
- (3) The *Chairperson* may vacate the chair for the duration of any item under discussion whereupon a temporary *Chairperson* will take the chair.

## **29. Adjournment of debate on a motion**

- (1) Debate on a motion may be adjourned by resolution.

- (2) A motion to adjourn debate must include an appropriate date and time (including the option of a date after some specified event has occurred) at which the debate shall resume.
- (3) A motion to adjourn debate must also include the reasons for seeking the adjournment.
- (4) If a motion calls for adjournment of debate to later in the *Meeting*, resumption of debate will be at the *Chairperson's* discretion unless the timing of the resumption has specifically been resolved upon within the adjournment motion.
- (5) All other business before *Council*, except for questions relating to the proposed adjournment, is suspended until the motion to adjourn debate is decided upon.
- (6) Upon resumption of debate on the motion, debate will continue from the point that it was adjourned.
- (7) Upon resumption of debate on the motion, the *Chairperson* may determine that, because of the length of the period for which the motion was adjourned, the interests of good governance would be best served by allowing all *Councillors* to debate the motion, regardless of which *Councillors* had previously debated the matter. In that event, the debate will recommence.

### **30. Points of order**

- (1) The grounds on which a point of order may be taken are where something said or done during debate:
  - (a) is contrary to this local law;
  - (b) is defamatory;
  - (c) is irrelevant to the matter before *Council*;
  - (d) is outside *Council's* power; or
  - (e) constitutes improper conduct.
- (2) The *Councillor* taking the point of order must nominate the ground under sub-clause (1) relied upon to support the point of order being taken.
- (3) If called to order, the *Councillor* must resume his/her seat and remain silent until the point of order is decided upon, unless otherwise directed by the *Chairperson* to provide an explanation.
- (4) The *Chairperson* may adjourn the *Meeting* to consider a point of order
- (5) All other matters before *Council* are suspended until the point of order is determined.

- (6) The *Chairperson* when ruling on a point of order must state the reasons for the ruling.
- (7) The *Chairperson* shall be the final arbiter on all points of order unless *Council* resolves that the decision of the *Chairperson* be overruled.
- (8) A *Councillor* stating a difference of opinion will not be considered to be taking a point of order.

### **31. Dissent from the *Chairperson's* ruling**

- (1) A *Councillor* may move that the *Meeting* disagree with a ruling by the *Chairperson* by moving:  

*“That the *Chairperson's* ruling be dissented from”.*
- (2) When a motion in accordance with this clause is moved and seconded, the *Chairperson* must leave the chair and a temporary *Chairperson* must take his or her place.
- (3) The temporary *Chairperson* must invite the mover to state the reason for his or her dissent and the *Chairperson* may then reply.
- (4) The temporary *Chairperson* must put the motion in the following form:  

*“That the *Chairperson's* ruling be dissented from”.*
- (5) If the vote is in the negative, the *Chairperson* resumes the chair and the *Meeting* proceeds.
- (6) If the vote is in the affirmative, the *Chairperson* must resume the chair, reverse or vary (as the case may be) his or her ruling and proceed.
- (7) The defeat of the *Chairperson's* ruling is in no way a motion of censure or no-confidence in the *Chairperson*, and should not be so regarded by the *Meeting*.

### **32. Questions To *Councillors* and officers**

- (1) At an appropriate time during a debate, the *Chairperson* may allow questions from *Councillors* in relation to the matter before *Council*.
- (2) Questions should not be raised during the address of another *Councillor*.
- (3) At any time during their address on a matter before *Council*, a *Councillor* may ask a question of a member of *Council* staff on that matter.
- (4) Should such questions become excessive, or irrelevant to the matter before *Council*, the *Chairperson* may determine that the questions not be dealt with.
- (5) All questions must be directed through the *Chairperson*.

- (6) Questions must be succinct, precise and relevant to the matter before *Council*.

### **33. Voting**

- (1) When called upon by the *Chairperson*, the *Councillors* present must vote by a show of hands.
- (2) A motion is carried or lost on the majority vote of *Councillors* present.
- (3) Unless otherwise prohibited, each *Councillor* present must vote.
- (4) Each *Councillor* present at a *Meeting* will have one vote.
- (5) Subject to section 98 of the *Act*, if there is an equality of votes the *Chairperson* will have a second vote.
- (6) There shall be no discussion on the vote once the result has been declared by the *Chairperson* except that a *Councillor* may request to have their dissent to the motion recorded or to request a *Division*.

### **34. Divisions**

- (1) Subject to clause 44(3)(f) a *Division* may be requested by any *Councillor* on any matter immediately after the vote is taken.
- (2) If a *Division* is called for by a *Councillor*, the vote must be taken by *Councillors* voting in the affirmative first holding up their hands and then those voting in the negative holding up their hands. The *Chairperson* must declare the result.
- (3) The *Chairperson* must announce which *Councillors* voted in the affirmative and which voted in the negative.
- (4) The Chief Executive Officer must record in the minutes the names of *Councillors* and whether they voted for or against.

### **35. Revocation of previous resolutions**

- (1) A *Notice of Motion* to revoke a previous resolution must be:
  - (a) signed by six (6) *Councillors*;
  - (b) given to the Chief Executive Officer within fourteen (14) days of the *Meeting* at which the resolution was carried; and
  - (c) deemed withdrawn if not moved at the next *Meeting* at which such business may be transacted.

## Part 5 – Miscellaneous

Part 5 addresses a range of matters – a *Councillor's* right to demand documents, when a *Meeting* can be recorded, what happen if some aspect of procedure is not detailed in this local law and when this local law applies to *Special Committee* meetings.

### 36. Demand documents

Any *Councillor* may, as of right, demand at a *Meeting* the production of any of the documents of *Council* applying to the matter under discussion.

### 37. Procedure Generally

Unless otherwise provided for, the conduct of *Meetings* is at the discretion of *Council*.

### 38. Recording of *Meetings*

- (1) If *Council* resolves that the proceedings of a *Meeting* be recorded, the Chief Executive Officer (or other person authorised by the Chief Executive Officer) must record on suitable recording equipment all the proceedings of the *Meeting*.
- (2) Subject to sub-clause (1), a person must not operate audiotape or other recording equipment at any *Meeting* without first obtaining the consent of *Council* or the *Chairperson*. Such consent may at any time during the course of the *Meeting* be revoked by *Council* or the *Chairperson* (as the case may be).

### 39. Application to *Special Committees*

The provisions of this local law apply to any meeting of a *Special Committee*, with all necessary adaptations.

## Part 6 – Removal from *Council Chamber* and Offences

Part 6 provides for the removal from the *Council Chamber* of anyone committing an offence and when an offence is committed (clause 40). It also provides for the process for serving an infringement notice on those who commit an offence against the local law.

### 40. Offences

It is an offence for any person (including but not limited to a *Councillor*):

- (1) to fail to comply with a direction or order of the *Chairperson* in relation to the conduct of the *Meeting* and the maintenance of order at that *Meeting*; or
- (2) to breach clause 38(2) of this local law.

**Penalty: two penalty units.**

### 41. Removal from *Council Chamber*

- (1) The *Chairperson* may order any person (other than a *Councillor*) who has, during a *Meeting*, behaved in a disorderly or improper manner to leave the *Council Chamber* for the remainder of the *Meeting*.
- (2) A person to whom an order is directed under sub-clause (1) must comply with that order.
- (3) If *Council* resolves that a *Councillor* has, in its opinion, committed an offence against this local law, it may resolve by a *Procedural Motion* that the *Councillor* leave the *Council Chamber* for the remainder of the *Meeting*.
- (4) A *Councillor* in respect of whom a *Procedural Motion* has been made under sub-clause (3) must leave the *Council Chamber* and remain absent from the *Council Chamber* for the remainder of the *Meeting*.
- (5) The *Chairperson* may ask any *Authorised Officer* or member of the police force to remove from the *Council Chamber* any person who, by reason of sub-clause (2) or (4), is obliged to leave the *Council Chamber*.

### 42. Infringement Notices Generally

- (1) As an alternative to prosecution for an offence, a person may be served with an infringement notice.
- (2) The penalty fixed for an infringement notice is one *Penalty Unit*.
- (3) Where *Council* resolves that a person has, in its opinion, committed an offence or offences against this local law, an *Authorised Officer* may serve on that person an infringement notice.

- (4) Any person served with an infringement notice may pay the penalty indicated to an *Authorised Officer* at *Council's* office.
- (5) To avoid prosecution, the penalty indicated should be paid within 28 days from the date of the service of the infringement notice.
- (6) A person served with an infringement notice is entitled to disregard the infringement notice and defend the prosecution in court.
- (7) If a person served with an infringement notice makes a written representation to *Council* or an *Authorised Officer* within 28 days of the issue of the infringement notice, the representation must be brought to the attention of *Council*.

#### **43. Withdrawing an Infringement Notice**

- (1) *Council* may withdraw an infringement notice in accordance with the *Infringements Act 2006*.
- (2) Where an infringement notice is withdrawn, the person upon whom it was served is entitled to a refund or any payment which that person has made on the infringement notice.

## Part 7 – Election of Mayor

Part 7 outlines how the Mayor is elected.
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### 44. Election of Mayor

- (1) Where the office of Mayor becomes vacant, an election must take place at a *Meeting* as soon as practicable after the vacancy has occurred and in accordance with the provisions of the *Act*.
- (2) At a *Meeting* to elect the Mayor, any *Councillor* may be appointed as a temporary *Chairperson* to deal with:
  - (a) the receipt of nominations for the election of Mayor; and
  - (b) the election of the Mayor;
- (3) In determining the election of the Mayor, the following will apply:
  - (a) where only one nomination is received, that candidate must be declared elected;
  - (b) where two or more nominations are received the candidate with the absolute majority of votes cast will be elected;
  - (c) in the event that no candidate receives an absolute majority of votes the candidate with the fewest number of votes must be declared to be a defeated candidate. If because of an equality of votes no candidate can be declared a defeated candidate, the defeated candidate shall be determined by lot. In conducting the lot, the names of all candidates with the least number of votes shall be placed in a container. The first name drawn will be deemed to be the defeated candidate;
  - (d) if one (1) of the remaining candidates receives an absolute majority of votes upon a new vote being taken, he or she must be declared to have been duly elected. If none of the remaining candidates receives an absolute majority of the votes, the process of declaring the candidate with the fewest number of votes a defeated candidate and voting for the remaining candidates, must be repeated until one (1) of the candidates receives an absolute majority of votes. That candidate must be declared to have been duly elected;
  - (e) in the event of two (2) or more remaining candidates having an equality of votes the result will be determined by lot. In conducting the lot, the names of the remaining candidates having an equality of votes will be placed in a container. The name(s) drawn will be deemed to have been duly defeated; and
  - (f) if the defeated candidate in any round of voting is determined by lot, a *Division* cannot be called for or acted upon relating to that round of voting or the conduct of the lot.

**THE COMMON SEAL of MONASH )**  
**CITY COUNCIL** was hereunto affixed )  
this                    day of                    )  
in the presence of:                    )

..... Councillor

..... Chief Executive Officer

The Resolution for passing this Local Law was agreed to by the City of Monash on 20 November 2007 and confirmed on 18 December 2007.