

LOCAL GOVERNMENT ACT 1995

SHIRE OF DERBY-WEST KIMBERLEY

STANDING ORDERS LOCAL LAW 2001

(This local law is the Model Local Law as adopted by reference on 26 July and published in the Government Gazette on 28 August 2001 with the amendments made by the adoption incorporated.)

(This copy includes the 2010 proposed amendments as set out in the Standing Orders Amendment Local Law 2010)

LOCAL GOVERNMENT ACT 1995
SHIRE OF DERBY-WEST KIMBERLEY
STANDING ORDERS LOCAL LAW 2001

ARRANGEMENT

Part 1 - Preliminary

- 1.1 Citation
- 1.2 Application
- 1.3 Interpretation
- 1.4 Repeal

Part 2 - Calling Meetings

- 2.1 Calling Committee Meetings
- 2.2 Notice of Special Council Meetings

Part 3 - Business of the Meeting

- 3.1 Business to be Specified on Notice Paper
- 3.2 Order of Business
- 3.3 Public Question Time
- 3.4 Petitions
- 3.5 Confirmation of Minutes
- 3.6 Announcements by the Person Presiding Without Discussion
- 3.7 Matters for which Meeting May be Closed
- 3.9 Motions of which Previous Notice has been Given
- 3.10 Questions by Members of which Due Notice has been given.
- 3.11 Urgent Business Approved By the Person Presiding or by Decision
- 3.12 Deputations

Part 4 - Public Access to Agenda Material

- 4.1 Inspection Entitlement
- 4.2 Confidentiality of Information Withheld

Part 6 - Quorum

- 6.1 Quorum to be Present
- 6.2 Loss of Quorum During a Meeting

Part 7 - Keeping of Minutes

- 7.1 Content of Minutes
- 7.2 Preservation of Minutes

Part 8 - Conduct of Persons at Council and Committee Meetings

- 8.1 Official Titles to be Used
- 8.2 Members to Occupy Own Seats
- 8.3 Leaving Meetings
- 8.4 Adverse Reflection
- 8.5 Recording of Proceedings
- 8.6 Prevention of Disturbance
- 8.7 Distinguished Visitors

Part 9 - Conduct of Members During Debate

- 9.1 Members to Rise
- 9.2 Priority
- 9.3 The Person Presiding to Take Part in Debates
- 9.4 Relevance
- 9.5 Limitation of Number of Speeches
- 9.6 Limitation of Duration of Speeches
- 9.7 Members Not to Speak After Conclusion of Debate
- 9.8 Members Not to Interrupt
- 9.9 Re-Opening Discussion on Decisions

Part 10 - Procedures for Debate of Motions

- 10.1 Motions To be Stated
- 10.2 Motions to be Supported
- 10.3 Unopposed Business
- 10.4 Only One Substantive Motion Considered
- 10.5 Breaking Down of Complex Questions
- 10.6 Order of Call in Debate
- 10.7 Limit of Debate
- 10.8 Member May Require Questions to be Read
- 10.9 Consent of Secunder Required to Accept Alteration of Wording
- 10.10 Order of Amendments
- 10.11 Amendments Must Not Negate Original Motion
- 10.12 Mover of Motion Not to Speak on Amendment
- 10.13 Substantive Motion
- 10.14 Withdrawal of Motion and Amendments
- 10.15 Limitation of Withdrawal
- 10.16 Personal Explanation
- 10.17 Personal Explanation - When Heard
- 10.18 Ruling on Questions of Personal Explanation
- 10.19 Right of Reply
- 10.20 Right of Reply Provisions

Part 11 - Procedural Motions

- 11.1 Permissible Procedural Motions
- 11.2 No Debate on Procedural Motions
- 11.3 Procedural Motions - Closing Debate - Who May Move
- 11.4 Procedural Motions - Right of Reply on Substantive Motion

Part 12 - Effect of Procedural Motions

- 12.1 Council (or Committee) to Proceed to the Next Business - Effect of Motion
- 12.2 Question to be Adjourned - Effect of Motion
- 12.3 Council (or Committee) to Now Adjourn - Effect of Motion
- 12.4 Question to be Put - Effect of Motion
- 12.5 Member to be No Longer Heard - Effect of Motion
- 12.6 Ruling of the Person Presiding Disagreed With - Effect of Motion
- 12.7 Council (or Committee) to Meet Behind Closed Doors - Effect of Motion

Part 13 - Making Decisions

- 13.1 Question - When Put
- 13.2 Question - Method of Putting

Part 15 - Preserving Order

- 15.1 The Person Presiding to Preserve Order
- 15.2 Demand for Withdrawal
- 15.3 Points of Order - When to Raise - Procedure
- 15.4 Points of Order - When Valid
- 15.5 Points Of Order - Ruling
- 15.6 Points of Order - Ruling Conclusive, Unless Dissent Motion is Moved
- 15.7 Points of Order Take Precedence
- 15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order

Part 16 - Adjournment of Meeting

- 16.1 Meeting May be Adjourned
- 16.2 Limit to Moving Adjournment
- 16.3 Unopposed Business - Motion for Adjournment
- 16.4 Withdrawal of Motion for Adjournment
- 16.5 Time To Which Adjourned

Part 17 - Committees of the Council

- 17.1 Establishment and Appointment of Committees
- 17.2 Appointment of Deputy Committee Members
- 17.3 Presentation of Committee Reports
- 17.4 Reports of Committees - Questions
- 17.5 Permissible Motions on Recommendation From Committee
- 17.6 Standing Orders Apply to Committees

Part 18 - Administrative Matters

- 18.1 Suspension of Standing Orders
- 18.2 Cases not Provided for in Standing Orders

Part 19 - Common Seal

- 19.1 The Council's Common Seal

LOCAL GOVERNMENT ACT 1995

SHIRE OF DERBY-WEST KIMBERLEY

STANDING ORDERS LOCAL LAW 2001

Under the powers conferred by the Local Government Act 1995, the Council of the Shire of Derby/West Kimberley hereby having resolved on the 26th day of July 2001, to adopt the following local law.

Part 1 - Preliminary

1.1 Citation

(1) This Local Law may be cited as the Shire of Derby/West Kimberley Standing Orders Local Law 2001.

(2) In the clauses to follow, this Local Law is referred to as "the Standing Orders."

1.2 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.

1.3 Interpretation

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

"**CEO**" means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Derby/West Kimberley;

"**committee**" means a committee of the Council;

"**Council**" means the Council of the Shire of Derby/West Kimberley;

"**councillor**" means a person who holds the office of councillor on the Council and includes the President and Deputy President;

"**employee**" means an employee of the local government;

"**local government**" means the Shire of Derby/West Kimberley;

"**member**" means the President, Deputy President or a councillor and includes, in the case of a committee, a member of the committee who is not the President, Deputy President or a councillor;

"**person presiding**" means –

(a) in reference to a Council meeting the person who presides at the Council meeting in accordance with section 5.6 of the Act; and

(b) in reference to a committee, the presiding member;

"**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.

1.4 Repeal

The Standing Orders of the Shire of Derby-West Kimberley published in the *Government Gazette* on 20 August 1976, as amended by publications in the *Government Gazette* on 9 October 1981 and 22 June 1984 are repealed.

Part 2 - Calling Meetings

2.1 Calling Committee Meetings

A meeting of a committee is to be held -

- (a) if called for in a verbal or written request to the CEO by the presiding member of the committee, setting out the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) if so decided by the committee.

2.2 Notice of Special Council Meetings

(1) Subject to subclause (2), the CEO is to convene a special meeting of the Council by giving each Council member at least 72 hours' notice of the date, time, place and purpose of the meeting.

(2) Where there is a need to meet urgently, in the opinion of the President, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause (1).

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 a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the presiding member or a decision of the committee.

(4) 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;

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

3.2 Order of Business

(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows -

- (a) Declaration of opening/Announcement of visitors
- (b) Record of attendance/Apologies/Leave of absence (previously approved)
- (c) Response to previous public questions taken on notice
- (d) Public question time
- (e) Applications for leave of absence
- (f) Petitions
- (g) Confirmation of minutes
- (h) Announcements by the person presiding without discussion
- (i) Matters for which the meeting may be closed
- (j) Reports
- (k) Motions of which previous notice has been given
- (l) Questions by members of which due notice has been given

- (m) Urgent business approved by the person presiding or by decision
- (n) Matters behind closed doors
- (o) Closure

(2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.

(3) Notwithstanding subclauses (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 subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

3.3 Public Question Time

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

(2) A question may be taken on notice by the Council or committee for 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.

3.4 Petitions

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 1998* if it is -
 - (i) a proposal to change the method of filling the office of President;
 - (ii) a proposal to create a new district or the boundaries of the local government;
 - (iii) a request for a poll on a recommended amalgamation;
 - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

3.5 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.

3.6 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.

3.7 Matters for which Meeting May be Closed

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting.

3.9 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) No notice of motion is to be out of order because the policy involved is considered to be objectionable.

(6) A motion of which notice has been given is to lapse unless –

(a) the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or

(b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

(7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

3.10 Questions by Members of which Due Notice has been given.

(1) A question on notice is to be given by a member in writing to the CEO at least seven (7) clear working days before the meeting at which it is raised.

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

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

3.11 Urgent Business Approved By the Person Presiding or by Decision

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

3.12 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 the 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, if the request is to attend a meeting of a 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 as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.

(3) A deputation invited to attend a Council or committee meeting -

(a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and

(b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires.

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

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 Regulation 14 of the Regulations.

4.2 Confidentiality of Information Withheld

(1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be -

(a) identified in the agenda of a Council or committee meeting under the item "Matters for which meeting may be closed"; and

(b) marked "confidential" in the agenda.

(2) A member in receipt of confidential information is not to disclose such information except to the extent permitted by Regulation 6(3) of the Local Government (Rules of Conduct) Regulations 2007.

Part 6 - Quorum

6.1 Quorum to be Present

(1) The Council or a committee is not to transact business at a meeting unless a quorum is present.

6.2 Loss of Quorum During a Meeting

(1) If at any time during the course of a meeting of the Council or a committee a quorum is not present -

(a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest,

the matter is adjourned until either -

(i) a quorum is present to decide the matter; or

- (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or
 - (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or these Standing Orders when calling a meeting of that type.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) (b) –
- (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.

Part 7 - Keeping of Minutes

7.1 Content of Minutes

In addition to the matters contained in Regulation 11 of 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 are to speak of each other in the Council or committee by their respective titles of President, councillor or member. Members in speaking of or addressing employees, are to designate them by their respective official titles.

8.2 Members to Occupy Own Seats

At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, a position at the Council table to each councillor and the councillor is to occupy that position when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

8.3 Leaving Meetings

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

8.4 Adverse Reflection

- (1) No member 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 is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person.
- (3) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the person presiding is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

8.5 Recording of Proceedings

- (1) No person is to use any electronic, visual or vocal 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) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.
Penalty \$1,000
- (2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
Penalty \$1,000

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 Wishing to Speak

Every member wishing to speak is to indicate by show of hands or other method agreed upon by the Council or committee. When invited, members are to address the Council or committee through the person presiding.

9.2 Priority

In the event of two or more members 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 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, in reply, or to 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 the agreement of a simple majority of members present.

9.7 Members Not to Speak After Conclusion of Debate

No member is to speak to any question after it has been put by the person presiding.

9.8 Members Not to Interrupt

No member is to interrupt another member whilst speaking unless –

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (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 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 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 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 under Regulation 10 of 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 may declare the motion in subclause (1) carried without debate and without taking a vote on it.

(3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or committee.

(4) If a member signifies opposition to a motion the motion is to be dealt with according to this Part.

(5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

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 in the following order –

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any;
- (h) 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

Any number of amendments may be proposed to a motion, but when an amendment is moved to a substantive motion, no second or subsequent 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 Not to Speak on Amendment

On an amendment being moved, any member may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person.

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.

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 majority of members present, until the amendment proposed has been withdrawn or lost.

10.16 Personal Explanation

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. Any member who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member makes a personal explanation, no reference is to be made to matters unnecessary for that purpose.

10.17 Personal Explanation - When Heard

A member wishing to make a personal explanation of matters referred to by any member then speaking, is entitled to be heard immediately, if the member then speaking consents at the time, but if the member who is speaking declines to give way, the explanation 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 has the right of reply. After the mover of the substantive motion 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 amendments;
- (c) the mover of any amendment does not have a right of reply;
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment 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) The mover of a motion stated in each of paragraphs (d) and (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 member who has moved, seconded, or spoken for or against the substantive motion, or any amendment may move any procedural motion which, 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

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. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again 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 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) Subject to any deferral under clause 3.7 or other decision of the Council or committee, 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, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.
- (4) A member is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

Part 13 - Making Decisions

13.1 Question - When 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, shall again state it.

13.2 Question - Method of Putting

- (1) 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 or other method agreed upon so that no voter's vote is secret, before declaring the decision.

(2) Subclause (1) has no effect in regard to a secret ballot conducted under Schedule 2.3 of the Act.

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

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and 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.

15.3 Points of Order - When to Raise - Procedure

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking 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, or policy of the local government, provided that the member making the point of order states the written law or policy believed to be breached.

15.5 Points Of Order - Ruling

The person presiding is to give a decision on any point of order which 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.

15.9 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. Upon resumption, debate is to continue at the point at which the meeting was adjourned. 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.

(2) 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 in 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 unopposed business.

16.4 Withdrawal of Motion for Adjournment

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion 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 one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.

(2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

17.3 Presentation of Committee Reports

When the report or recommendations of a committee are placed before the Council, the adoption of recommendations of the committee is to be moved by -

- (a) the presiding member of the committee if the presiding member is a councillor and is in attendance; or
- (b) a councillor member who is a member of the committee, if the presiding member of the committee is not a councillor, or is absent; or
- (c) otherwise, by a councillor who is not a member of the committee.

17.4 Reports of Committees - Questions

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the presiding member or to any member of the committee in attendance.

17.5 Permissible Motions on Recommendation From Committee

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, 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.

17.6 Standing Orders Apply to Committees

Where not otherwise specifically provided, these Standing Orders apply generally to the proceedings of committees, except that the following Standing Orders do not apply to the meeting of a committee -

- (a) Clause 8.2, in regard to seating;
- (c) Clause 9.5, limitation on the number of speeches.

Part 18 - Administrative Matters

18.1 Suspension of Standing Orders

- (1) The Council or a 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.

18.2 Cases not Provided for in Standing Orders

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. The decision of the person presiding in these cases is final, except where a motion is moved and carried under clause 11.1 (f).

18.3 Enforcement

- (1) The person presiding at any Council or committee meeting is authorised to enforce these Standing Orders during the course of the meeting and to liaise with the CEO where appropriate regarding the appropriate action to be taken for any breach.
- (2) No action shall be taken by the local government to institute legal proceedings for an alleged breach of these Standing Orders unless by resolution of Council.
- (3) Council may resolve to deal with any alleged breach of the Standing Orders through the application of the procedures contained within the *Local Government (Rules of Conduct) Regulations 2007*.

(4) Penalties under the Standing Orders are as per the Act and the Regulations.

Part 19 - Common Seal

19.1 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 and every document to which the seal is affixed must be signed by the President and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.
- (5) Any person who uses the common seal of the local government or a replica thereof without authority commits an offence.

Penalty \$1,000

Dated this 27th day of July 2001

The Common Seal of the Shire of Derby/West Kimberley was affixed in the presence of –

E. M. ARCHER, President.
J. P. THROSSELL, CEO.

LG306

LOCAL GOVERNMENT ACT 1995
Shire of Derby/West Kimberley
Standing Orders Amendment Local Law 2011

Under the powers conferred by the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Derby/West Kimberley resolved on 16th December, 2010 to make the following local law.

1. Citation

This local law is the *Shire of Derby/West Kimberley Standing Orders Amendment Local Law 2011*.

2. Commencement

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

3. Principal local law amended

The *Shire of Derby/West Kimberley Standing Orders Local Law 2001* as published in the *Government Gazette* on 28 August 2001 is referred to as the principal local law. The principal local law is amended.

4. General amendments

Throughout the local law where it appears—

(a) delete "[**insert name of local government**]" and insert "Shire of Derby/West Kimberley".

(b) delete "*insert "Mayor" or "President"*" and insert "President".

5. Clause 1.1 amended

In clause 1.1(1) delete "**insert date**" and insert "2001".

6. Clause 1.3 amended

In clause 1.3(1) insert the following definitions in alphabetical order of the terms being defined—

"councillor" means a person who holds the office of councillor on the Council and includes the President and Deputy President;

"employee" means an employee of the local government;

"local government" means the Shire of Derby/West Kimberley;

"**member**" means the President, Deputy President or a councillor and includes, in the case of a committee, a member of the committee who is not the President, Deputy President or a councillor;

"**person presiding**" means—

(a) in reference to a Council meeting the person who presides at the Council meeting in accordance with section 5.6 of the Act; and

(b) in reference to a committee, the presiding member;

7. Clause 3.1 amended

In clause 3.1(3) delete "Presiding Member" and insert "presiding member".

8. Clause 3.2 amended

In clause 3.2(1)(h) delete "without discussion".

9. Clause 3.4 amended

In clause 3.4—

(a) in paragraph (g) delete "Local Government (Constitution) Regulations 1996" and insert "*Local Government (Constitution) Regulations 1998*";

(b) in sub-paragraph (g)(ii) delete "Local Government" and insert "local government".

10. Clause 3.6 amended

In the heading of clause 3.6 delete "**without discussion**".

11. Clause 3.9 amended

In clause 3.9(5) delete "policy" and insert "subject matter".

12. Clause 3.12 amended

In clauses 3.12(1) and (2) delete "Presiding Member" and insert "presiding member".

13. Clause 4.1 amended

In clause 4.1 delete "Regulation 14" and insert "regulation 14".

14. Clause 4.2 amended

In clause 4.2—

(a) in subclause (1) delete "Regulation 14.2" and insert "regulation 14.2".

(b) delete subclause (2) and insert—

(2) A member in receipt of confidential information is not to disclose such information

except to the extent permitted by regulation 6(3) of the *Local Government (Rules of Conduct) Regulations 2007*.

(c) delete "Penalty \$5,000".

15. Clause 7.1 amended

In clause 7.1 delete "Regulation 11" and insert "regulation 11".

16. Clause 8.1 amended

Delete clause 8.1 and insert—

8.1 Official Titles to be used

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

17. Clause 8.4 amended

Delete clause 8.4 and insert—

8.4 Adverse Reflection

(1) No member 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 is to use offensive or objectionable expressions in reference to any member, employee, or any other person.

(3) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the person presiding is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

18. Clause 9.1 amended

Delete clause 9.1 and insert—

9.1 Members Wishing to Speak

Every member wishing to speak is to indicate by show of hands or other method agreed upon by Council or committee. When invited, members are to address the Council or committee through the person presiding.

19. Clause 9.2 amended

In clause 9.2, delete "of the Council or a committee".

20. Clause 9.4 amended

In clause 9.4, delete "of the Council or a committee".

21. Clause 9.7 amended

In clause 9.7, delete "of the Council or a committee".

22. Clause 9.8 amended

Delete clause 9.8 and insert—

9.8 Members Not to Interrupt

No member is to interrupt another member whilst speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.16; or
- (d) to move a motion under clause 11(1)(e).

23. Clause 9.9 amended

In clause 9.9 delete, "of the Council or a committee".

24. Clause 10.1 amended

In clause 10.1, delete "of the Council or a committee".

25. Clause 10.2 amended

In clause 10.2 delete "Regulation 10" and insert "regulation 10".

26. Clause 10.16 amended

Delete clause 10.16 and insert—

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. Any member who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood.

(2) When a member makes a personal explanation, no reference is to be made to matters unnecessary for that purpose.

27. Clause 10.17 amended

Delete clause 10.17 and insert—

10.17 Personal Explanation—When Heard

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

28. Clause 10.18 amended

Delete the heading of clause 10.18 and insert "**Ruling on the admissibility of a personal explanation**".

29. Clause 10.19 amended

In clause 10.19(1) delete "question" and insert "motion".

30. Clause 10.20 amended

In clause 10.20(d) delete "original" wherever it appears and insert "substantive".

31. Clause 11.2 amended

In clause 11.2(2) delete "Clause 11.1" and insert "clause 11.1".

32. Clause 11.3 amended

In clause 11.3 delete "person" and insert "member".

33. Clause 12.7 amended

In clause 12.7—

(a) delete subclause (4) and insert—

(4) A member is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.

(b) delete "Penalty \$5,000".

34. Clause 13.1 amended

In clause 13.1, delete "of the Council or committee".

35. Clause 15.4 amended

In clause 15.4(c) delete "Local Government" and insert "local government".

36. Clause 17.3 amended

Delete clause 17.3 and insert—

17.3 Presentation of Committee Reports

When the report of recommendations of a committee is placed before the Council, the adoption of the recommendations of the committee is to be moved by—

- (a) the presiding member of the committee if the presiding member is a councillor and is in attendance; or
- (b) a councillor who is a member of the committee, if the presiding member of the committee is not a councillor, or is absent; or
- (c) otherwise, by a councillor who is not a member of the committee.

37. Clause 17.4 amended

In clause 17.4 delete "Presiding Member" and insert "presiding member".

38. Clause 18.3 added

After clause 18.2, add—

18.3 Enforcement

- (1) The person presiding at any Council or committee meeting is authorised to enforce the Standing Orders during the course of the meeting and to liaise with the CEO where appropriate regarding the appropriate action to be taken for any breach.
- (2) No action shall be taken by the local government to institute legal proceedings for an alleged breach of the Standing Orders unless by resolution of Council.
- (3) Council may resolve to deal with any alleged breach of the Standing Orders through the application of the procedures contained within the *Local Government (Rules of Conduct) Regulations 2007*.
- (4) Penalties under the Standing Orders are as per the Act and the Regulations.

39. Clause 19.1 amended

- (a) In the heading of clause 19.1 delete "**Council's**" and insert "**Local Government's**".
- (b) In clauses 19.1(1), (2) and (5) delete "Local Government" and insert "local government"

Dated: 31st March, 2011.

The Common Seal of the Shire of Derby/West Kimberley was affixed under the authority of a resolution of Council in the presence of—

E. M. ARCHER, Shire President.

S. BURGE, Chief Executive Officer. </blockquote>]

Government of Western Australia

State Law Publisher. All contents Copyright (C) 2003.
All rights reserved. Disclaimer