

# **Manningham City Council Meeting Procedure Law 2015**

**(Adopted by Council on 29 September 2015)**

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# MANNINGHAM CITY COUNCIL MEETING PROCEDURE LAW 2015

## PART 1 - PRELIMINARY

### 1. LOCAL LAW

- 1.1. The City of Manningham's Meeting Procedure Law 2015 is a law made under Parts 2 and 5 of the Local Government Act 1989.

### 2. OBJECTIVES OF THE LAW

- 2.1. The objectives of this Law are to –
- a) provide a mechanism to facilitate the peace, order and good government of the municipal district.;
  - b) regulate and control the election of Mayor, Deputy Mayor and Council representatives on external bodies;
  - c) regulate and control the procedures governing the conduct of Council Meetings;
  - d) regulate and control the use of the Common seal; and
  - e) provide for the administration of the Council's powers and functions.

### 3. COMMENCEMENT and REVOCATION DATES

- 3.1. This Law:-
- a) comes into operation on 28 October 2015;
  - b) ceases to operate on 28 October 2025 unless revoked sooner by Council resolution.
- 3.2. Council's Meeting Procedure Law 2005 is revoked upon the coming into operation of this Law.

### 4. APPLICATION OF THE LAW

- 4.1. This Law applies to Manningham City Council Meetings.

### 5. DEFINITIONS

- 5.1. Unless the contrary intention appears in the Law the following words mean:

“Act”	means the Local Government Act 1989;
“Acting Chairperson”	means a Councillor elected by Council to temporarily chair a Meeting or part of a Meeting at which the

	Mayor is not present or at a meeting called in respect to clause 9;
“Agenda”	means the notice paper or business paper for a Council Meeting;
“Chairperson”	means a person appointed to chair a Meeting;
“Chief Executive Officer”	means the Chief Executive Officer of the Council and includes a person acting as the Chief Executive Officer;
“Common Seal”	means Council’s Common Seal, the style of which may be determined by the Council from time to time;
“Council”	means the Councillors of the Manningham City Council;
“Council Meeting” or “Meeting”	means an Ordinary or Special Meeting of the Council;
“Councillor”	means a Councillor of the Manningham City Council;
“Deputy Mayor”	means a Councillor elected by Councillors to the position of Deputy Mayor;
“Director”	means a Level 2 senior officer of Council;
“Division”	means the clarification of votes cast by Councillors;
“Mayor”	means a Councillor elected to the position by Councillors;
“Minutes”	means the record of proceedings of a Meeting;
“Municipal District”	means the area governed by the Council;
“Notice of Motion”	means a notice setting out the text of a motion which is proposed to be moved at the next relevant Meeting;
“Offence”	means an act or default contrary to this Law;
“Officer”	means a senior officer as defined under the Act;
“Ordinary Meeting”	means a Meeting at which general business of the Council may be transacted;
“Penalty Unit”	means the meaning ascribed to it by section 110(2) of the Sentencing Act 1991 (as amended from time to time);
“Petition”	means a letter or document which is addressed to the Mayor and Councillors and may include joint letters obviously intended for Council in accordance with any Council policy as adopted from time to time;
“Point of Order”	means a request by a Councillor for a ruling by the Mayor or Chairperson;

“Schedule”	means an attachment to this Law;
“Special Meeting”	means a Meeting convened in accordance with section 84 of the Act.

## **PART 2 – COMMON SEAL**

### **6. USE OF THE COMMON SEAL**

- 6.1. The Common Seal must only be used on the authority of the Council and every document to which the Common Seal is affixed must be signed by the Chief Executive Officer and by –
- a) the Mayor; or
  - b) in the absence of the Mayor, by any one Councillor.
- 6.2. Notwithstanding clause 6.1, Council may from time to time by policy or by resolution determine that documents of a certain class(es) to which the Common Seal is to be affixed be signed by the Chief Executive Officer and any one Director.

### **7. UNAUTHORISED USE OF THE COMMON SEAL IS AN OFFENCE**

- 7.1. Any person who uses the Common Seal without authority is guilty of an offence.

### **8. SAFE CUSTODY OF THE COMMON SEAL**

- 8.1. The Chief Executive Officer shall at all times ensure the safe custody and security of the Common Seal.

## **PART 3 – ELECTION OF MAYOR AND OTHERS**

### **9. WHEN ELECTION HELD**

- 9.1. The Mayor is to be elected at a Meeting held:
- a) after the fourth Saturday in October but not later than 30 November in each year; or
  - b) as soon as possible after any vacancy in the office of Mayor occurs.

### **10. ELIGIBILITY FOR ELECTION**

- 10.1. Any Councillor is eligible for election or re-election to the office of Mayor unless precluded by a VCAT order made under section 81K of the Act.

## **11. ACTING CHAIRPERSON**

- 11.1. At the commencement of proceedings to elect the Mayor, the Chief Executive Officer shall invite nominations for an Acting Chairperson to temporarily chair the Meeting to deal with:
- a) the receipt of nominations for Mayor; and
  - b) the election of Mayor.
- 11.2. The Acting Chairperson must not be a candidate for the position of Mayor at that Meeting.

## **12. NOMINATIONS FOR POSITION OF MAYOR**

- 12.1. Nominations must be seconded, and the nominee must consent to their nomination.
- 12.2. If the nominee is not present, written notification of consent is required.
- 12.3. Once the Acting Chairperson closes nominations and declares the candidates, a candidate cannot withdraw their candidacy.
- 12.4. Each candidate has a right to address the Council on their candidature. This right is exercised at the discretion of each candidate. The Acting Chairperson shall ask each candidate whether or not they wish to address Council.
- 12.5. A candidate who has declined the invitation to address the Council cannot subsequently request to do so.
- 12.6. Where more than one candidate indicates a desire to address Council, the order of address by each candidate will be determined by lot. The Chief Executive Officer shall have conduct of the lot. In drawing of the lot the candidate whose name is drawn first is the first speaker, the second drawn is the second speaker and so on until an order is determined for all participating candidates.
- 12.7. Each candidate addressing Council has up to three minutes to make their address. No extension of time is permissible. During their address a candidate must not comment on any other candidate.

## **13. ELECTION PROCESS FOR POSITION OF MAYOR**

- 13.1. If there is only one nomination, the candidate nominated shall be deemed to have been duly elected.
- 13.2. If there is more than one nomination, the Councillors present at the meeting must vote for one of the candidates, and by a show of hands.
- 13.3. In the event of a candidate receiving a majority of the votes, that candidate shall be declared to have been duly elected.

- 13.4. In the event of no candidate receiving a majority of the votes, the candidate with the fewest number of votes shall be declared to be a defeated candidate and the Councillors present at the meeting shall then vote for one of the remaining candidates by a show of hands.
- 13.5. If one of the remaining candidates receives a majority of the votes, that candidate shall be declared to have been duly elected.
- 13.6. If none of the remaining candidates receive a 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 by a show of hands, shall be repeated until one of the candidates receives a majority of votes and who shall be declared to have been duly elected.
- 13.7. In the event of two or more candidates having an equality of votes and one of them having to be declared a defeated candidate, the Acting Chairperson shall have no second vote and the result will be determined by lot. In the drawing of the lot the candidate whose name is first drawn is deemed to be the defeated candidate.
- 13.8. Where there are two candidates remaining and the votes that are cast are equally divided, the Acting Chairperson shall have no second vote, the result of the election must be determined by lot, the first candidate drawn to be declared elected.
- 13.9. The Chief Executive Officer shall have the conduct of the lot.
- 13.10. After the election of the Mayor is determined, the Mayor shall chair the meeting.

#### **14. ELECTION OF DEPUTY MAYOR AND COUNCIL REPRESENTATIVES ON COMMITTEES AND EXTERNAL BODIES**

- 14.1. Council may elect a Deputy Mayor.
- 14.2. The procedure used for the election of Mayor shall be used to elect the Deputy Mayor.
- 14.3. The appointment of Councillors to positions on committees and external bodies will be subject to the voting procedures set out in this Part where the number of candidates exceeds the number of vacant positions.
- 14.4. Despite the restriction contained in clauses 13.7 and 13.8, the Chairperson has a second vote where there is an equality of votes between candidates under this clause.

## **PART 4 – COUNCIL MEETINGS AND PROCEDURE**

### **15. GENERAL**

- 15.1. Where a circumstance has not been provided for, is unclear, the Chairperson may elect to have the matter determined by resolution of Council.
- 15.2. The ruling of the Chairperson upon all questions of order and of matters arising in debate shall be final.
- 15.3. The Council may by resolution, adopt policies which complement this Local Law and which facilitate the conduct of Meetings.

### **16. ORDER OF BUSINESS AT ORDINARY MEETING OF COUNCIL**

- 16.1. The order of business for Ordinary Meetings of Council will be as follows –
- a) opening prayer and statements of acknowledgement;
  - b) apologies and requests for leave of absence;
  - c) prior notification of disclosures of interest and conflict of interest;
  - d) confirmation of minutes;
  - e) verbal questions from the public
  - f) presentations;
  - g) petitions;
  - h) admission of urgent business;
  - i) officer reports – town planning matters;
  - j) officer reports – other matters;
  - k) rescission or alteration motions
  - l) notices of motion;
  - m) urgent business;
  - n) public question time;
  - o) councillor question time; and
  - p) confidential business (to be considered in camera).
- 16.2. The order of business may only be altered by resolution of the Meeting.

## **17. QUORUM AT COUNCIL MEETING**

- 17.1. A quorum at a Council Meeting must be at least a majority of the Councillors of the Council.
- 17.2. No business shall be conducted at any Council Meeting unless a quorum is present.
- 17.3. The Chairperson must commence the Meeting as soon as a quorum is achieved after the specified starting time for the Meeting.

## **18. ADJOURNMENT OF COUNCIL MEETING**

- 18.1. Once the Meeting is commenced, Council may from time to time, by resolution, adjourn the Meeting, which is in addition to the power of the Chairperson to adjourn a Meeting under clause 51.1(c)
- 18.2. No discussion is allowed on any motion for adjournment of the Meeting, but if on being put the motion is lost, the subject then under consideration or the next on the Agenda or any other that may be allowed precedence must be resolved on before any subsequent motion for adjournment is made.
- 18.3. If at any Council Meeting a quorum is not present within half an hour after the time appointed for the Meeting, or a quorum is not maintained, the Chief Executive Officer, or next most senior officer present at the Council Meeting, may adjourn the Meeting to any time not more than seven days afterwards.
- 18.4. In the event that an adjourned time and date cannot be determined the Meeting lapses.
- 18.5. Except where any Council Meeting is adjourned to a subsequent hour on the same day, notice of the adjourned Meeting and the time to which the Meeting has been adjourned must be given by the Chief Executive Officer to every Councillor not present at the time of adjournment, as soon as is practicable.

## **19. CHAIRING OF COUNCIL MEETINGS**

- 19.1. The Mayor will chair all meetings of Council at which the Mayor is present, unless precluded from doing so because of a disclosed conflict of interest.
- 19.2. In the absence of the Mayor, a Councillor shall be elected as the Acting Chairperson to chair the meeting for the duration of the Mayors absence from the meeting.

## **20. DATE, TIME AND PLACE OF COUNCIL MEETINGS**

- 20.1. The date, time and place for all Ordinary Council Meetings shall be fixed by Council from time to time.

- 20.2. Council, or in cases of necessity or urgency, the Mayor in consultation with the Chief Executive Officer, may change the date, time and place for an Ordinary Council Meeting, and the Chief Executive Officer must give at least forty-eight hours notice of such a change to all Councillors and the public unless extraordinary circumstances arise.

## **21. SPECIAL MEETINGS OF COUNCIL**

- 21.1. The Mayor or at least three other Councillors may call a Special Meeting of Council by delivering written notice to the Chief Executive Officer in sufficient time to enable compliance with clauses 21.2 and 22.1.
- 21.2. Notice of Meetings incorporating or accompanied by an agenda must be given to all Councillors at least forty-eight hours before any Council Meeting.
- 21.3. For Special Meetings of Council to be called for reasons of urgency however, it will be sufficient with the agreement of the Mayor for verbal notice to be given by the Chief Executive Officer, provided that bona-fide attempts are made to contact all Councillors.

## **22. NOTICE OF MEETINGS**

- 22.1. Notice of Meetings shall be provided to the public in the following manner:
- a) for Ordinary Meetings of Council, notice shall be provided not less than 48 hours prior to the Meeting;
  - b) for clause 20.2, notice shall be provided not less than 48 hours prior to the Meeting unless extraordinary circumstances arise; and
  - c) for Special Meetings of Council notice shall be provided not less than 24 hours prior to the Meeting unless extraordinary circumstances arise:
- 22.2. Notice as stated in 22.1 will be by displaying the meeting agenda on the Council's website.

## **23. MEETINGS OPEN TO THE PUBLIC**

- 23.1. All Meetings are to be open to members of the public unless, pursuant to clause 24.1 Council resolves to close the Meeting to members of the public.
- 23.2. The Chief Executive Officer may close the doors to the Council Chamber when in open session for reasons of comfort and practicality provided that access is available at all times.

## **24. CLOSED MEETINGS**

- 24.1. Council may resolve to close a Meeting for the consideration of any matter contained in section 89 (2) of the Act provided the reason is recorded in the minutes of the Meeting.
- 24.2. This Law continues to apply after Council has closed the Meeting to members of the public.
- 24.3. Upon conclusion of a matter considered in a Meeting closed to members of the public, Council shall resolve to reopen the Meeting.
- 24.4. The minutes of Meetings closed to members of the public will be available for inspection by Councillors and will be confidentially tabled at the Meeting at which they are to be confirmed.

## **25. APOLOGIES AND LEAVE OF ABSENCE**

- 25.1. A Councillor who is intending to be absent from an Ordinary Meeting of Council may notify the Chief Executive Officer in advance of the meeting. Any apology for non-attendance will be submitted at the Meeting by the Chief Executive Officer and an apology will be recorded in the minutes of the Meeting.
- 25.2. A Councillor may apply for leave of absence from Council by submitting a written request to the Chief Executive Officer in advance of the period of leave being sort. The Chief Executive Officer will place the request before the next Ordinary Meeting of Council. Council will resolve on whether or not to grant leave of absence. Council cannot unreasonably refuse to grant leave of absence.
- 25.3. An Agenda shall not be delivered to a Councillor who has been granted leave of absence unless the Councillor has, in writing, requested the Chief Executive Officer to continue to provide Agendas for Meetings held during the period of leave.

## **26. DISCLOSURE OF CONFLICT OF INTEREST**

- 26.1. If a Councillor has a conflict of interest in a matter before a Council Meeting or Special committee, the Councillor must disclose that conflict and conduct themselves strictly in accordance with the provisions of Division 1A of Part 4 of the Act.
- 26.2. If a Councillor has a conflict of interest in a matter, the Councillor is to complete a "Disclosure of Interest" form as provided in Schedule 3 and lodge it with the Chief Executive Officer prior to or at, the Meeting at which the matter is to be considered, but if at the meeting, no later than when the item is called by the Chairperson.

- 26.3. At each Meeting under the item “Prior Notification of Disclosures of Conflict of Interest”, the Chief Executive Officer is to indicate the matters for which notifications of conflict of interest have been received from any Councillor who is not present at the meeting.
- 26.4. If the Councillor having a conflict of interest is present at the Meeting, the Councillor is to disclose the conflict of interest under the item “Prior Notification of Conflict of Interest” or immediately before the consideration of, or discussion on, the item to which the conflict applies.
- 26.5. If the Chairperson has a conflict of interest, the Chairperson must disclose the conflict of interest immediately after calling the item and must vacate the Chair and the chamber for the remainder of that item.

## **27. MINUTES**

- 27.1. The minutes shall record the business transacted at each Meeting including:-
- a) the names of the Councillors:
    - i. present; and
    - ii. who have submitted apologies or who have been granted leave of absence;
  - b) the names of the Officers present and their organisational title;
  - c) any disclosures of conflict of interest;
  - d) each motion and amendment moved (including motions that lapse for the want of a seconder) and motions and amendments withdrawn by resolution or by leave of the Meeting;
  - e) whether motions or amendments were carried or lost;
  - f) the vote cast by each Councillor upon a division, either FOR, AGAINST or any Councillor who has ABSTAINED;
  - g) the failure of a quorum;
  - h) closure of a Meeting to members of the public and the reason for the closure; and
  - i) when requested by a Councillor, a record of their opposition to any resolution.
- 27.2. At every Council Meeting, the minutes of the preceding Ordinary Meeting must be dealt with as follows:
- a) if the minutes have been distributed to each Councillor at least 48 hours before the Meeting, a motion must be passed for the confirmation of the minutes; or
  - b) if the minutes have not been so distributed, the minutes must be held over for confirmation at the next Meeting.
- 27.3. Minutes of a Special Meeting will be listed for confirmation at an appropriate Ordinary Meeting of Council.

- 27.4. No discussion or amendment is permitted on the minutes except as to their accuracy as a record of the proceedings.
- 27.5. Once the minutes are confirmed, with or without amendment, they must be signed by the Chairperson of the Meeting at which they were confirmed.

## **28. COUNCILLORS' QUESTION TIME**

- 28.1. Question time at Ordinary Meetings of the Council is to enable Councillors to address questions to Officers but this does not restrict the right of a Councillor to ask for information during the course of debate on other items of business as set out on the Agenda.
- 28.2. Questions may be asked with or without notice.
- 28.3. A question upon notice must be delivered to the Chief Executive Officer not later than 12 noon on the second Monday prior to the time fixed for holding the Meeting at which the question on notice will be asked and the Chief Executive Officer must include the question on the Agenda for the Meeting.
- 28.4. An Officer is not obliged to answer a question without notice.
- 28.5. The Officer may answer the question or reply that notice is required.
- 28.6. If an Officer does not answer a question asked without notice a written response is to be provided to all Councillors no later than the second Friday after the Meeting.
- 28.7. All questions and answers must be as brief as possible and no discussion is allowed.
- 28.8. A question may be disallowed by the Chairperson if it:
- a) relates to a matter other than Council business;
  - b) is defamatory, indirect, obscure, abusive or objectionable in language or substance;
  - c) is repetitive of a question already answered (whether at the same or an earlier Meeting);
  - d) is confidential in nature and is of legal significance; or
  - e) is asked to embarrass Council, a Councillor or an Officer.

## **29. QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 29.1. There shall be a public question and answer time, to be known as "public question time", at every Ordinary Meeting of Council to enable members of the public present in the gallery to address written questions to Council.
- 29.2. Public question time shall be for a period of up to half an hour and shall be taken in the order prescribed in clause 16.1.

- 29.3. Members of the public will be required to submit a question form as provided in Schedule 1, indicating their name and the subject matter and depositing the form in the question box located in the gallery up to the time that the Mayor takes public question time business.
- 29.4. The procedure and sequence for dealing with a question shall be:
- a) provided that the questioner is present in the gallery the Chief Executive Officer shall read the question; and
  - b) the Mayor may invite the questioner to address the Council on points of clarification or elaboration, the duration of which is at the Mayor's discretion; and
  - c) the Mayor may answer the question or direct the question as the Mayor deems appropriate.
- 29.5. A Councillor or Officer may answer a question without notice, or take the question on notice.
- 29.6. If a Councillor or Officer replies to a question asked without notice that notice is required, then notice shall be treated as having been given and the question shall be subject to written reply from the Councillor or the Chief Executive Officer on behalf of an Officer no later than the second Friday after the Meeting.
- 29.7. All questions and answers shall be as brief as possible and no discussion shall be permitted on any question.
- 29.8. The number of questions that may be asked by any one person shall be limited to two.
- 29.9. The number of questions that may be asked on any issue shall be limited to two.
- 29.10. A question may be disallowed by the Mayor on the ground that it:
- a) relates to matters beyond Council's powers;
  - b) is confidential in nature and is of legal significance;
  - c) is defamatory, indecent, abusive or objectionable in language or substance;
  - d) is repetitive of a question already answered; or
  - e) is asked to embarrass the Council, a Councillor or an Officer.

### **30. VERBAL QUESTIONS FROM MEMBERS OF THE PUBLIC**

- 30.1. In addition to public question time provided for under clause 29, there shall be a time provided at every Ordinary Meeting of Council to enable members of the public to ask questions of Council which shall be known as "verbal questions from members of the public".

- 30.2. The time allowed for verbal questions from members of the public shall be a period of up to half an hour and shall be taken in the order prescribed in clause 16.1.
- 30.3. The process for conducting verbal questions from members of the public will be in accordance with any Council policy or guidelines.

### **31. PETITIONS & SUBMISSIONS**

- 31.1. Petitions are to be presented by Councillors at the Meeting in accordance with any Council policy.
- 31.2. Council will hear submitters afforded statutory rights of address and other submitters in accordance with any Council policy.

## **PART 5 – CONDUCT OF DEBATE**

### **32. CALL TO ORDER**

- 32.1. Councillors and Officers shall, at all times, stand when speaking, unless precluded by physical disability from standing.
- 32.2. A Councillor when speaking shall not be interrupted unless a point of order is called, when that Councillor shall sit down, and the Councillor calling the point of order shall be heard and the matter determined by the Chairperson before the Councillor may resume speaking or any other subject is considered.
- 32.3. A point of order may be taken on the grounds that the matter is –
- a) contrary to this Local Law;
  - b) defamatory;
  - c) irrelevant;
  - d) outside Council's power;
  - e) improper; or
  - f) frivolous or vexatious.

### **33. USE OF TITLES**

- 33.1. Councillors and Officers, when speaking, shall designate each other by their respective titles of Mayor, Councillor or Officer as the case may be.

## **34. PERSONAL REFLECTION**

- 34.1. All imputations of improper motives and all personal reflections on Councillors and Officers and disobedience of the ruling of the Chairperson on any matter shall be deemed disorderly.

## **35. DISORDERLY OR OFFENSIVE BEHAVIOUR**

- 35.1. If a Councillor uses an expression or makes any imputation or reflection which, in the opinion of the Chairperson, is disorderly or capable of being applied offensively to any other Councillor or Officer, the Councillor shall be required by the Chairperson to withdraw the expression, and make a satisfactory apology to Council.
- 35.2. If a Councillor uses offensive or disorderly language or otherwise behaves in a manner which in the opinion of the Chairperson is offensive, disorderly or disturbing to the debate or proceedings of Council, the Councillor shall be required by the Chairperson to withdraw the expression and to apologise for such conduct.
- 35.3. If, after having been twice called to order or to withdraw an expression and to apologise for such conduct, the Councillor fails or refuses to do so or whenever any Councillor fails or refuses to obey the ruling or order of the Chairperson on any matter, the Chairperson may refuse to hear the Councillor further upon the matter then under discussion and call upon the next speaker, or adjourn the sitting of Council.

## **PART 6 – RULES ON SPEAKING**

### **36. ORDER OF SPEAKING**

- 36.1. If two or more Councillors rise to speak at the same time, the Chairperson shall decide the order of speaking.

### **37. CHAIRPERSON MAY SPEAK**

- 37.1. The Chairperson may address a Meeting upon any matter under discussion.

### **38. LIMITATION ON SPEAKING**

- 38.1. The mover of a motion can speak once to the motion, once to each amendment and can exercise a right of reply on the motion, subject to clause 38.2.
- 38.2. The mover of a motion –

- a) has a right of reply on the motion where an amendment to the motion has been carried;
  - b) has the right of reply where the mover has, in accordance with clause 43.15, changed the wording of a motion provided that no amendment has been carried;
  - c) has no right of reply on the motion where there has not been a speaker against the motion;
  - d) can only exercise a right of reply immediately prior to the motion being put; and
  - e) has no right of reply in relation to any amendment prior to such amendment being put.
- 38.3. The mover of an amendment can speak once to the motion and once to their own or any other amendment.
- 38.4. The mover of an amendment has no right of reply.
- 38.5. No Councillor may speak longer than the time set out below, unless granted an extension by the Meeting:
- a) five minutes, if the Councillor is the mover of a motion;
  - b) three minutes, for any other Councillor speaking to a motion or amendment; and
  - c) two minutes, for the mover of a motion exercising a right of reply.
- 38.6. A motion for an extension of time once carried, shall allow a Councillor a further two minutes to speak and no further extension shall be permitted.

## **39. PERSONAL EXPLANATION**

- 39.1. A Councillor or Officer may, at a Meeting at a time permitted by the Chairperson, make a personal explanation for a period not exceeding two minutes on any statement made by a Councillor or Officer at that Meeting reflecting on that Councillor or Officer.
- 39.2. A personal explanation shall not be debated.

## **40. DIGRESSION**

- 40.1. A Councillor shall not digress from the subject matter of the motion under debate.

## **PART 7 – STANDING ORDERS**

### **41. ENFORCEMENT OF STANDING ORDERS**

- 41.1. A Councillor may require compliance with the provisions of this Law by the Meeting by directing the attention of the Chairperson to a non-compliance.

### **42. SUSPENSION OF STANDING ORDERS**

- 42.1. Any of the provisions of this Law, with the exception of :-

- a) quorum of Council;
- b) election of Mayor;
- c) motions to rescind resolutions;
- d) suspension of Standing Orders;
- e) conflicts of interest;
- f) formal or procedural motions;
- g) urgent business; and
- h) confidential information;

may be suspended on a particular occasion to enable the formalities of meeting procedure to be waived.

- 42.2. When a motion for the suspension of any one or more of the provisions of this Law is moved, the mover shall be entitled to speak on the subject for the purpose of advancing reasons for moving the motion, but no further discussion on the motion shall be allowed.

## **PART 8 – MOTIONS, AMENDMENTS AND VOTING**

### **43. MOTIONS AND AMENDMENTS**

- 43.1. A Councillor who proposes a motion or amendment must state the motion or amendment before addressing Council in support of it.
- 43.2. A motion or amendment is to be so worded that the meaning is clear and unambiguous and shall not be defamatory or objectionable in language or nature.
- 43.3. The Chairperson may require a motion or amendment to be put in writing before it is considered.
- 43.4. No motion or amendment will be discussed unless it is seconded.
- 43.5. If there is no seconder, the motion or amendment lapses.

- 43.6. If there is a seconder, the Chairperson will call upon the mover to address the meeting. The mover may exercise this right, decline the opportunity to speak or defer speaking.
- 43.7. Thereafter the seconder will be entitled to speak. The seconder may exercise this right or decline the opportunity to speak but cannot defer speaking.
- 43.8. The Chairperson will call for a speaker against the motion.
- 43.9. Where the mover of the motion or amendment elects to defer and there is a speaker against the motion or amendment the Chairperson will offer the mover the opportunity to speak to the motion or amendment prior to hearing the Councillor speak against the motion or amendment.
- 43.10. In circumstances where the mover has chosen to defer speaking to the motion and an amendment is moved and seconded, the mover of the motion may exercise the right to speak to the amendment subject to clause 38.2, however the mover no longer has the right to speak to the motion pursuant to clause 43.9. Where an amendment is lost the mover of the motion retains the right of reply on the motion pursuant to clause 38.2.
- 43.11. The Chairperson will then call for speakers for and against the motion in alternate sequence.
- 43.12. When the sequence of alternate speakers is exhausted, notwithstanding that there are further speakers wishing to be heard on one side of the motion, the Chairperson shall put the motion.
- 43.13. Any Councillor except for the mover or seconder of the original motion may move or second an amendment.
- 43.14. The Chairperson shall take speakers for and against an amendment in alternate sequence in the same manner as for motions.
- 43.15. The mover of a motion or amendment may, with the consent of the seconder, change the wording of the motion or amendment unless any Councillor opposes the change.
- 43.16. A Councillor calling the attention of the Chairperson to a point of order is not regarded as speaking to the motion or the amendment.
- 43.17. No motion or amendment may be withdrawn without the consent of the Meeting.
- 43.18. Amendments must be dealt with one at a time.
- 43.19. An amendment must be relevant to the motion upon which it is moved.
- 43.20. An amendment must not be considered until any previous amendment is decided upon but amendments may be foreshadowed.

- 43.21. If an amendment is carried it becomes the substantive motion and mover and seconder of the amendment become the mover and seconder of the substantive motion. Debate recommences as for a new motion..
- 43.22. If a proposed amendment effectively negatives the substance of the motion, it shall be disallowed and ruled to be a foreshowed alternative motion and shall only be considered in the event that the motion is lost.
- 43.23. At any time during debate any Councillor may foreshadow a motion or amendment to inform the Meeting of their intention to move a motion or amendment at a later stage in the Meeting.
- 43.24. Any foreshadowed motion or amendment must relate to the matter under discussion.

#### **44. NOTICES OF MOTION**

- 44.1. A Notice of Motion must be in writing and given to the Chief Executive Officer by noon on the second Monday prior to the date fixed for holding the Meeting.
- 44.2. The Chief Executive Officer must date and number all Notices of Motion in the order received.
- 44.3. A Notice of Motion that is listed on the Agenda shall lapse, unless the motion is moved by the Councillor who submitted it or by any other Councillor present if the Councillor who submitted it is absent or elects not to move it.
- 44.4. A Notice of Motion may be amended and the mover and seconder of the motion may accept a proposed amendment or amend the motion if leave is granted.
- 44.5. If a Notice of Motion whether amended or not, is lost, a similar motion cannot again be put before a Council Meeting for three calendar months from the date it was lost, unless a notice signed by a majority of Councillors is submitted to the Chief Executive Officer.
- 44.6. Further motions are only permissible in relation to a Notice of Motion that is carried, and not permissible in relation to a Notice of Motion that is not carried.
- 44.7. A Notice of Motion cannot be considered in relation to a matter that is the subject of a rescission motion within three calendar months of the rescission motion having been dealt with, unless a notice signed by a majority of all Councillors is submitted to the Chief Executive Officer.

## **45. RESCISSION OR ALTERATION OF RESOLUTIONS**

- 45.1. Two or more Councillors may propose a motion to rescind or alter a resolution of Council provided that notice of the motion is delivered to the Chief Executive Officer by 5.00pm on the next working day following the Meeting of Council at which the resolution proposed to be rescinded or altered was adopted, outlining the resolution to be rescinded or altered and the date of the meeting at which the resolution was adopted.
- 45.2. Rescission or alteration motions are to be lodged on a form provided for this purpose as appearing in Schedule 2.
- 45.3. No action will be taken to implement a resolution on which a rescission or alteration motion has been lodged pursuant to clause 46.2.
- 45.4. A rescission or alteration of a previous resolution must be passed by a majority of the whole Council.
- 45.5. Rescission or alteration motions are not permissible in respect of planning permit resolutions, planning scheme amendment resolutions or contract/tender acceptance resolutions.
- 45.6. A rescission or alteration motion is not permissible in respect of a rescission or alteration motion that has been carried.
- 45.7. In the event that a rescission motion is carried, a further motion is permissible in respect of that matter.

## **46. FORMAL OR PROCEDURAL MOTIONS**

- 46.1. A procedural motion, unless otherwise prohibited, may be moved at any time and shall be dealt with in accordance with Schedule 4.
- 46.2. A procedural motion is required to be seconded.
- 46.3. Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- 46.4. Unless otherwise provided a procedural motion cannot be amended.

## **47. URGENT BUSINESS AT ORDINARY MEETINGS OF COUNCIL**

- 47.1. Council may resolve, by not less than a two-thirds majority of those present at an Ordinary Meeting of Council, to admit (without the required notice) an item considered to be urgent business under clause 16.1(m).
- 47.2. Council may admit further items of urgent business at any time during an Ordinary Meeting of Council, by not less than a two thirds majority vote, subject to all Councillors who were in attendance at the commencement of the meeting being present at the time such motion to admit is put.

## **48. VOTING**

- 48.1. For a vote to be valid, it must be personally cast by a Councillor at the meeting.
- 48.2. When called upon by the Chairperson, voting shall be by a show of hands.
- 48.3. To determine the result, the Chairperson shall put the motion or amendment first in the affirmative, then in the negative.
- 48.4. The Chairperson may require a recount to be taken and shall declare the result.

## **49. SECOND VOTE**

- 49.1. If the number of votes in favour of a motion is half of the Councillors present at the Meeting at the time the vote is taken, the Chairperson has a second vote.
- 49.2. Clause 49.1 does not apply in the event of an equality of votes in respect of a rescission or alteration motion, or in cases where the Act provides that a matter or amendment is to be determined by lot.

## **50. DIVISIONS**

- 50.1. A division may be requested by any Councillor, on any matter, subject to such request being made to the Chairperson immediately prior to, or immediately after, a vote is taken.
- 50.2. Once a division has been requested, the Chairperson will call for those Councillors voting for the motion to stand and be named and then those Councillors voting against it to also stand and be named.
- 50.3. Once named Councillors will resume their seats.
- 50.4. All Councillors who cast votes originally must remain in the Chamber whilst the division is taken.
- 50.5. Councillors who were absent for the original vote but who have returned in time to vote on the division may cast a vote.
- 50.6. The Chairperson will then declare the result of the division.
- 50.7. The result of the division supersedes the result of the original vote.

## **PART 9 – CHAIRPERSON’S DUTIES AND DISCRETIONS**

### **51. CHAIRPERSON**

- 51.1. The Chairperson has the following additional duties and discretions:
- a) the Chairperson must not accept or entertain any motion, question or statement which is derogatory, defamatory or embarrassing to any Councillor, member of staff, ratepayer or member of the public;
  - b) the Chairperson must call to order any person including any Councillor who is disruptive or unruly during any Meeting and any person who, having been twice so called to order fails to comply with the Chairperson’s call, will be guilty of an offence;
  - c) the Chairperson may without resolution adjourn for a period not exceeding five minutes any Meeting which has in the opinion of the Chairperson become unruly to the extent that the business of the Meeting cannot be reasonably continued; and
  - d) the Chairperson may remain seated during all or any part of any Meeting.
- 51.2. Any person referred to in clause 52.1(b) who upon being requested by the Chairperson to leave such meeting does not do so may be forthwith removed, and any member of the police force may remove such person. The period of any exclusion will be for the entirety of the meeting at which the offence occurred.

### **52. ELECTRONIC RECORDING OF MEETINGS BY THE PUBLIC**

- 52.1. Councillors and members of the public are not permitted to have electronic or mobile recording devices turned on within the confines of the Council chamber during a Meeting. The Mayor has the discretion to waive this requirement in extenuating circumstances.
- 52.2. The Chairperson has absolute discretion to have terminated the electronic recording of a Meeting by the public where in the opinion of the Chairperson the electronic recording is unnecessarily impacting on the meeting.

## **PART 10 – ENFORCEMENT AND PENALTIES**

### **53. ENFORCEMENT AND PENALTIES**

- 53.1. Council may, by resolution, institute proceedings in the corporate name of Council in circumstances where clause 7 or 52.1(b) of this Law has been breached;

- 53.2. The maximum penalty for an offence against the provisions of clause 7 or 52.1(b) of this Law is:
- a) 10 penalty units for a first offence; and
  - b) 20 penalty units for a second or subsequent offence.

THE COMMON SEAL of )  
MANNINGHAM CITY COUNCIL )  
was hereunto affixed in the presence of: )

..... Mayor/Councillor

..... Chief Executive Officer

## SCHEDULE 1

### Question form for use by members of the public

This form is required to be completed and placed in the question box located in the gallery for this purpose by the time the Mayor calls on the business of public question time.

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

**QUESTION 1:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**QUESTION 2:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### GUIDELINES FOR THE CONDUCT OF PUBLIC QUESTION TIME AT ORDINARY MEETINGS OF COUNCIL:

1. Public question time shall be taken in the normal order of business listed on the Agenda and after any urgent items of business.
2. A question must be put in writing and for the question to proceed the person asking the question must be present in the gallery when the question is called on.
3. At the discretion of the Mayor the questioner may be invited to clarify or elaborate on the question.
4. The duration of any address by the questioner is at the discretion of the Mayor.
5. The Mayor may answer the question or direct it as deemed appropriate.
6. The number of questions that any person may ask shall be limited to two.
7. The number of questions that may be asked on any one issue shall be limited to two.



### SCHEDULE 3

#### Disclosure of Conflict of Interest Form

*This form is to be completed by a Councillor at the earliest opportunity after the Councillor has identified that he/she has a conflict of interest in an item listed on a Council agenda.*

I, Councillor ....., declare that I have a **conflict of interest** in

Item Number ..... on the agenda for the Council Meeting to be held on .....

Relating to .....

The type of interest is:

- Direct Interest
- Indirect Interest
  - Close association
  - Financial
  - Conflicting Duty
  - Applicable Gift
  - Party to the matter
  - Residential amenity

(Please tick the relevant type of interest)

The nature of the conflict of interest being that.....

.....

Signature ..... Name ..... Date .....

\* I will be attending the meeting.

\* I will be an apology for the meeting.

(\* Please strike out the one that is not applicable.)

Form received by Chief Executive Officer:

Signed .....

Dated .....

## SCHEDULE 4

### FORMAL MOTIONS – PROCEDURE AND EFFECT

FORMAL MOTION	FORM	WHO CAN MOVE OR SECOND	IS A SECONDER REQUIRED?	MATTERS IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION PROHIBITED	EFFECT IF CARRIED	EFFECT IF LOST
Adjournment of debate to later hour/date	That this matter be adjourned until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking	Motion and amendments postponed to the stated time/date	Debate continues unaffected
Adjournment of debate indefinitely	That this matter be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking  (c) When the matter is one in respect of which a call of Council has been	Motion and amendments postponed but may be resumed:  (a) At the same meeting upon motion to resume  (b) At any later meeting if on the Agenda	Debate continues unaffected

FORMAL MOTION	FORM	WHO CAN MOVE OR SECOND	IS A SECONDER REQUIRED?	MATTERS IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION PROHIBITED	EFFECT IF CARRIED	EFFECT IF LOST
					made		
Adjournment of meeting to later hour/date	That this meeting be adjourned until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking	Meeting adjourns immediately until the stated time/date	Debate continues unaffected
Adjournment of meeting indefinitely	That this meeting be adjourned until further notice	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking  (c) During a meeting which is a call of the Council	Meeting adjourns until further notice	Debate continues unaffected
Deferral of matter/item	That this matter be deferred until .....	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another	Matter/item deferred to the stated time/date	Debate continues unaffected

<b>FORMAL MOTION</b>	<b>FORM</b>	<b>WHO CAN MOVE OR SECOND</b>	<b>IS A SECONDER REQUIRED?</b>	<b>MATTERS IN RESPECT OF WHICH MOTION MAY BE MOVED</b>	<b>WHEN MOTION PROHIBITED</b>	<b>EFFECT IF CARRIED</b>	<b>EFFECT IF LOST</b>
					Councillor is speaking	Consideration starts afresh	
Withdrawal of item	That this matter be withdrawn	Any Councillor	Yes	Any matter	(a) During the election of the Chairperson  (b) When another Councillor is speaking	Matter/item withdrawn from consideration	Debate continues unaffected
The Closure	That the question be now put	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	During nominations for Chairperson  (A closure motion shall not be accepted by the Chairperson unless the Chairperson considers that there has been sufficient debate for and against the motion or amendment)	Motion or amendment in respect of which the closure is carried is put to the vote immediately	Debate continues unaffected
Laying the matter on the table	That the matter lie on the table	A Councillor who has not moved, seconded or	Yes	Any matter	(a) During the election of the	Motion and amendments not further discussed	Debate continues unaffected

FORMAL MOTION	FORM	WHO CAN MOVE OR SECOND	IS A SECONDER REQUIRED?	MATTERS IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION PROHIBITED	EFFECT IF CARRIED	EFFECT IF LOST
		spoken to the motion or any amendment of it			Chairperson  (b) During a meeting which is a call of the Council	or voted on until:  (a) Council resolves to take the question from the table at the same meeting  (b) Matter is placed on a future Agenda and the Council resolves to take the question from the table	
Proceeding to the next business	That the meeting proceed to the next business	A Councillor who has not moved, seconded or spoken to the motion or any amendment of it	Yes	Any matter	(a) During the election of the Chairperson  (b) During a meeting which is a call of the Council	(a) If carried in respect to a motion, its effect is to remove that motion from consideration  (b) If carried in respect to an amendment, its effect is to dispose of the amendment	Debate resumed at point of interruption

FORMAL MOTION	FORM	WHO CAN MOVE OR SECOND	IS A SECONDER REQUIRED?	MATTERS IN RESPECT OF WHICH MOTION MAY BE MOVED	WHEN MOTION PROHIBITED	EFFECT IF CARRIED	EFFECT IF LOST
						and debate resumes upon the substantive motion	