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# INTRODUCTION

As part of their Guiding Principles, Councils are to involve Councillors, Council staff, members of the public and others in the development, improvement and co-ordination of local government (section 8A, 8B and 8C of the *Local Government Act 1993*). How meetings are managed is an important part of achieving this goal.

Meeting procedures contribute to good public decision-making and increase Council's transparency and accountability to its community.

The AlburyCity Code of Meeting Practice has been prepared in accordance with the *Local Government Act 1993*; the Local Government (General) Regulation 2005; the Office of Local Government's Model Code of Conduct for Local Councils in NSW, March 2013; the Office of Local Government's Meetings Practice Note - August 2009; and Council's adopted Code of Meeting Practice 2013.

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## PART 1 – PRELIMINARY

### 1. CITATION

This Code may be cited as the 'AlburyCity Code of Meeting Practice'.

### 2. DEFINITIONS

Except as provided in this Code, expressions are defined in the dictionary at the end of the *Local Government Act 1993*.

In this Code:

- (a) **Amendment**, in relation to an original motion, means a motion moving an amendment to that motion.
- (b) **Chairperson**,
- in relation to a meeting of the Council – means the person presiding at the meeting as provided by clause 10; and
  - in relation to a meeting of a Committee – means the person presiding at the meeting as provided by clause 46.
- (c) **Clause**, refers to a Clause within this Code.
- (d) **Committee**, means a Committee appointed or elected by the Council in accordance with clause 40(a) or the Council when it has resolved itself into a Committee of the Whole.
- (e) **Committee of the Whole**, means all Councillors present at a Council or Committee meeting.
- (f) **Delegate**, means a Councillor or other person approved by Council to represent AlburyCity at a meeting or conference; or as a community representative on a Council advisory committee.
- (g) **'Negatived'**, – A motion 'negatived' is a motion lost.
- (h) **Record**, means a document (including any written or printed material) or object (including a sound recording, video recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council.
- (i) **Relative**, in relation to a person, means any of the following:
- (i) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person;
  - (ii) the spouse or the de facto partner of the person or of a person referred to in paragraph (i)(i).
- (j) **The Act**, means the *Local Government Act 1993*.
- (k) **The Code**, means the AlburyCity Code of Meeting Practice; and the Regulation means the Local Government (General) Regulation 2005.

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### 3. ACT AND REGULATION

- (a) This Code is made pursuant to section 360(2) of the Act.
- (b) It incorporates relevant provisions of the Act and the Regulation.
- (c) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) shall prevail to the extent of the inconsistency.

## PART 2 – CONVENING AND ATTENDANCE AT COUNCIL MEETINGS

### 4. FREQUENCY OF MEETINGS OF THE COUNCIL

- (a) The Council will meet at least two times per month (excluding January). Additional meetings will be convened as required.

Council will decide when and where to conduct the meeting.

- (b) The Council's monthly meeting cycle is as follows:

- (i) 1st Monday will be, if required, a Community Forum.

Community Forums will have an Agenda. In accordance with the Agenda, members of the public may address the Councillors and the Chairperson may invite questions. In accordance with clause 37, order is to be maintained at the meeting.

- (ii) 2<sup>nd</sup> and 4<sup>th</sup> Mondays will be a Council meeting

- (iii) Meetings of the Council are generally held in the AlburyCity Council Chambers, 553 Kiewa Street, Albury, commencing at 6.00pm, unless preceded by any public forum matters as per section 60 of this Code.

- (iv) Council meetings shall conclude at 11.00pm and extensions of time (in fifteen minute periods) shall only be granted by resolution.

- (v) The Council may, by resolution, vary the time, date and place of Ordinary Meetings should circumstances exist which would prevent the Ordinary Meetings of the Council being held in accordance with subclause (b).

- (c) Councillor Workshop

- (i) Councillor Workshops will be called by the Mayor;

- and held on the third Monday of each month (as scheduled) and on other Mondays where required, or
- when requested by two or more Councillors.

- (ii) Councillor Workshops will have an Agenda. The General Manager shall consult with the Mayor or Councillors who have called for the Workshop as to the items on the agenda.

- (iii) The public and media shall be excluded from workshops for items that meet the requirements of S10A of the Local Government Act 1993.

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- (iv) The Mayor or acting Mayor will chair Councillor Workshops and in their absence the Councillors will elect a Councillor to chair the Workshop.
- (v) All provisions of Council's Code of Meeting Practice apply to Councillor Workshops. In accordance with clause 37, order is to be maintained at the Workshop.
- (vi) There is no obligation on Councillors to attend Workshops.
- (vii) Council decisions are not made at workshops nor are they to be used to endorse the actions of staff.
- (viii) Workshop reports are to contain information but no recommendations. The Chairperson will allow questions but will not allow detailed discussion of matters raised in reports.

## 5. EXTRAORDINARY MEETINGS

- (a) The Mayor may call Extraordinary Meetings of the Council.
- (b) If the Mayor receives a request in writing signed by at least two Councillors, the Mayor must call an Extraordinary Meeting of the Council to be held as soon as practicable but in any event within eight working days after the receipt of the requests made. (The Mayor can be one of the two Councillors who submit the written request.)
- (c) If the Mayor fails, within four working days of receipt of a request pursuant to subclause (b), to give a direction to the General Manager for the sending of Notices to Councillors for an Extraordinary Meeting to be held within the period specified in subclause (b), the General Manager must send a notice to each Councillor specifying that the Meeting will be held on the eighth working day following the date of receipt of the request.
- (d) For the purpose of subclause (b) and (c), a working day is a day that is not a Saturday, Sunday or public holiday.
- (e) Extraordinary Meetings will be held as and when required.

## 6. NOTICE OF COUNCIL AND COMMITTEE MEETINGS

- (a) The General Manager of the Council must send to each Councillor, at least five days before each meeting of Council, a notice specifying the time, place and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- (b) The notice must be published in the local newspaper indicating the time and place of the meeting.
- (c) Notice of less than five days may be given of an Extraordinary Meeting called in an emergency, but in no case shall notice of less than one day be given.
- (d) Public notice must be given on the time and place of Extraordinary Council and Committee Meetings but this does not have to be by publication in a local newspaper.
- (e) Subclauses (a) and (b) do not apply to the consideration of business at a meeting if the business:
  - (i) is already before, or directly relates to a matter that is already before, the Council; or
  - (ii) is the election of a Chairperson to preside at the meeting as provided by clause 10; or

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- (iii) is a matter or topic put to the meeting by the Chairperson in accordance with clause 14; or
  - (iv) is a motion for the adoption of recommendations of a Committee of the Council.
- (f) Despite subclauses (a) and (b), business may be transacted at a meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (i) a motion is passed to have the business transacted at the meeting; and
  - (ii) either:
    - all the Councillors (disregarding any casual vacancies) are present at the meeting; or
    - the business proposed to be brought forward is ruled by the Chairperson to be of sufficient urgency to warrant consideration at that meeting.
- Such a motion can be moved without notice.
- (g) Despite clause 27 relating to the limitation as to the number of speeches, only the mover referred to in subclause (f) can speak to the motion before it is put.

## 7. QUORUM

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

## 8. WHAT HAPPENS WHEN A QUORUM IS NOT PRESENT

- (a) A meeting of the Council must be adjourned if a quorum is not present:
  - (i) within half an hour after the time designated for the holding of the meeting; or
  - (ii) at any time during the meeting.
- (b) In either case, the meeting must be adjourned to a time, date and place fixed:
  - (i) by the Chairperson; or
  - (ii) in his or her absence - by the majority of the Councillors present; or
  - (iii) failing that, by the General Manager.
- (c) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

## 9. PRESENCE AT COUNCIL MEETINGS

- (a) A Councillor cannot participate in a meeting of the Council unless personally present at the meeting.
- (b) A Councillor requesting leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that Councillor.

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- (c) Leave of absence for three or more consecutive meetings may only be granted by a Council resolution.
- (d) Leave of absence will not unreasonably be withheld.
- (e) Acceptance of an apology by the Council is taken as granting leave of absence.
- (f) If a Councillor is absent, with or without leave of the Council, from ordinary meetings of the Council for any period of more than three months, the Council must not pay any annual fee, or part of an annual fee, to that Councillor that relates to the period of absence that is in excess of three months.

## **PART 3 – PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

### **10. CHAIRPERSON OF COUNCIL MEETINGS**

- (a) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- (b) If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.
- (c) If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- (d) The election must be conducted by a show of hands.
  - (i) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - (ii) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- (e) If, at an election of a Chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot drawn by the General Manager or his nominee.
- (f) For the purpose of subclause (e), the person conducting the election must:
  - (i) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - (ii) then fold the slips so as to prevent the names being seen, mix the slips and draw one of the slips at random.
- (g) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

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## 11. CHAIRPERSON TO HAVE PRECEDENCE

- (a) When the Chairperson rises or speaks during a meeting of the Council:
  - (i) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
  - (ii) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

## 12. CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS

- (a) It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (b) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (c) Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

## 13. MINUTES

- (a) The Council must ensure that full and accurate minutes are kept of proceedings of the Council.
- (b) The General Manager must ensure that the following matters are recorded in the Council minutes:
  - (i) Details of each motion moved at a Council meeting and any of the amendments moved to it,
  - (ii) The NAMES of the MOVER and the SECONDER of the motion or amendment,
  - (iii) Whether the motion or amendment is CARRIED or LOST.
- (c) The correctness of the minutes of every preceding meeting, including Extraordinary Meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such minutes may be confirmed.
- (d) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (e) Minutes may be confirmed at an Extraordinary Meeting of the Council.
- (f) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

## 14. ORDER OF BUSINESS

- (a) At a meeting of the Council (other than an Extraordinary Meeting), the general order of business is (except as provided by this Code) such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, in accordance with this Code.
- (b) The order of business fixed under subclause (a) may be altered if a motion to that effect is carried. Such a motion can be moved without notice.

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- (c) Despite clause 27, only the mover of a motion referred to in subclause (b) may speak to the motion before it is put.

## 15. AGENDA FOR COUNCIL MEETINGS

- (a) The General Manager must ensure that the agenda paper for a meeting of the Council states:
- (i) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
  - (ii) if the Mayor (or the Deputy Mayor if acting for the Mayor) is the Chairperson - any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
  - (iii) the business proposed to be transacted at the meeting.
  - (iv) any business of which due notice has been given.
- (b) The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion, to the next meeting of the Council.
- (c) Certain matters, because of their confidential nature, may be considered in closed meetings. Parts of Council meetings may be closed to the public to discuss the type of matters referred to in section 10A(2) of the Act. Although Council decides whether the public is to be excluded from part of a meeting, the General Manager must indicate on the agenda (without details) that an item of business is likely to be discussed in a closed part of the meeting. The agenda item is to indicate the reason the item will be dealt with in the closed part of the meeting.
- (d) The General Manager must cause the agenda for a meeting of the Council to be prepared as soon as practicable before the meeting.
- (e) Nothing in this clause limits the powers of the Chairperson under clause 18.

## 16. GIVING NOTICE OF BUSINESS

- (a) The Council must not transact business at a meeting of the Council:
- (i) unless a Councillor has given notice of the business in writing by noon of the Monday immediately preceding the meeting; and
  - (ii) unless notice of business has been sent to the Councillors at least five days before the meeting, or in the event of an Extraordinary Meeting called in an emergency, at least one day.
- (b) Subclause (a) does not apply to the consideration of business at a meeting if the business:
- (i) is already before, or directly relates to a matter that is already before, the Council; or
  - (ii) is the election of a Chairperson to preside at the meeting as provided by clause 10(c); or
  - (iii) is a matter or topic put to the meeting by the Chairperson in accordance with clause 18 (a Mayoral Minute); or

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- (iv) is a motion for the adoption of recommendations of a Committee of the Council.
- (c) Despite subclause (a), business may be transacted at a meeting of the Council even though due notice of the business has not been given to Councillors. However, this can happen only if:
  - (i) a motion is passed to have the business transacted at the meeting; and
  - (ii) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency or is considered to be of great urgency by a majority of Councillors present at the meeting. Voting to be by show of hands.

Such a motion can be moved without notice.

- (d) Despite clause 27, only the mover of a motion referred to in subclause (b) can speak to the motion before it is put.

## 17. AGENDA FOR EXTRAORDINARY MEETING

- (a) The General Manager must ensure that the agenda for an Extraordinary Meeting of the Council deals only with the matters stated in the notice of the meeting.
- (b) Despite subclause (a), business may be transacted at an Extraordinary Meeting of the Council even though due notice of the business has not been given to the Councillors.

However, this can happen only if:

- (i) a motion is passed to have the business transacted at the meeting; and
- (ii) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency or is considered to be of great urgency by a majority of Councillors present at the meeting.
- (iii) Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of:
- (c) Despite clause 27 relating to limitations as to number of speeches, only the mover of a motion referred to in subclause (b) can speak to the motion before it is put.

## 18. MAYORAL MINUTES

- (a) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (b) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- (c) A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor if acting for the Mayor) or in a report made by a Council employee is, in so far as adopted by the Council, a resolution of the Council.

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## **19. REPORT OF AN OFFICE OF LOCAL GOVERNMENT REPRESENTATIVE TO BE TABLED AT COUNCIL MEETING**

- (a) When a report of the Office of Local Government representative has been presented to a meeting of the Council in accordance with section 433 of the Act, the Council must ensure that the report:
  - (i) is laid on the table at that meeting; and
  - (ii) is subsequently available for the information of Councillors and members of the public at all reasonable times.

## **20. NOTICE OF MOTION**

- (a) In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of the Council:
  - (i) any other Councillor may move the motion at the meeting; or
  - (ii) the Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.
- (b) It is possible to advise the Council of an intention to put forward a motion that relates to a motion currently before the Council. However, the chairperson cannot accept the new motion until the first motion is decided.

## **21. MOTIONS TO BE SECONDED**

- (a) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 18(b) and 27(e).

## **22. HOW SUBSEQUENT AMENDMENTS MAY BE MOVED**

- (a) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time.
- (b) It is permissible to debate the motion and an amendment concurrently.
- (c) It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.
- (d) Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion.

## **23. MOTIONS OF DISSENT**

- (a) A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (b) If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson

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must restore the motion or business to the business paper and proceed with it in due course.

- (c) Despite clause 27, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply. It is then a matter for Councillors to decide by majority vote whether to carry the motion of dissent.
- (d) A motion of dissent does not require a seconder.

#### **24. PETITIONS MAY BE PRESENTED TO THE COUNCIL**

- (a) A Councillor may present a petition to the Council.
- (b) The Chairperson must not permit discussion on the petition.
- (c) The petition will be referred to the General Manager for appropriate action or referral to a future meeting of the Council.

#### **25. QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES**

- (a) A Councillor:
  - (i) may, through the Chairperson, put a question to another Councillor; and
  - (ii) may, through the Chairperson and the General Manager, put a question to a Council employee.
- (b) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (c) Any such question shall be put directly, succinctly, and without argument. The Chairperson shall at all times reserve the right to require the Councillor to submit the question in writing. The Chairperson shall also reserve the right to direct that the response in relation to such question be reported in writing to a future meeting of the Council.
- (d) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.
- (e) Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.

#### **26. MODE OF ADDRESS**

Councillors shall at all times address other Councillors by their official designation, for example, "Mr. Mayor", "Madam Mayor" or "Councillor Brown", as the case may be.

#### **27. LIMITATION AS TO NUMBER OF SPEECHES**

- (a) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by Councillors during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (b) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to the motion.

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- (c) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (d) Despite subclauses (a) and (b), a Councillor may move that a motion or an amendment be now put:
  - (i) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it; or
  - (ii) if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
- (e) The Chairperson must immediately put to the vote, without debate, a motion moved under subclause (d). A seconder is not required for such a motion.
- (f) If a motion that is the original motion or an amendment be put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (a).
- (g) If a motion that the original motion or an amendment be put is rejected, the Chairperson must allow the debate on the original motion or amendment to be resumed.

## **28. MOTIONS PUT WITH NO OR LIMITED DEBATE**

- (a) When a motion has been moved and seconded, the Chairperson shall ask if the motion is to be opposed. If no opposition is indicated, then the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under clause 27(b).
- (b) If a motion is opposed, then the Mover shall speak first. Other speakers shall follow, and shall alternate for and against the motion. When that cycle of debate cannot proceed, the Chairperson may put the motion, provided no Councillor exercises his or her right to speak under clause 27(b).

## **29. VOTING AT COUNCIL MEETINGS**

- (a) Each Councillor is entitled to one vote.
- (b) However, the Chairperson has, in the event of an equality of votes, a second or casting vote.
- (c) A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This subclause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.
- (d) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (e) The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.
- (f) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who

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vote for the motion and those who vote against it are respectively recorded in the Council's minutes.

- (g) Voting at a Council Meeting including voting in an election at such a meeting is to be by open voting (such as on the voices or by show of hands). The Council will resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is in accordance with Schedule 7 of the Local Government (General) Regulation 2005.

### **30. REPRESENTATIONS BY MEMBERS OF THE PUBLIC - CLOSURE OF PART OF MEETING**

- (a) A representation at a Council Meeting by a member of the public as to whether part of a meeting should be closed to the public can only be made for a fixed period immediately after the motion to close part of the meeting is moved and seconded.
- (b) The period allowed in subclause (a) shall be fixed by Council resolution when the matter is under consideration, having due regard to the different types of matters to be discussed or received and discussed at the closed part of the meeting.

### **31. RESOLUTIONS PASSED AT CLOSED MEETINGS TO BE MADE PUBLIC**

If a Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

### **32. DECISIONS OF THE COUNCIL**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council.

### **33. RESCINDING OR ALTERING RESOLUTIONS**

- (a) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 16.
- (b) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (c) If a notice of motion to rescind or alter a resolution is given:
  - (i) at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
  - (ii) at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (d) In the case of a motion of alteration, subclause (c) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (e) If a motion has been negatived by the Council, a motion having the same effect must not be considered unless notice of it has been given in accordance with clause 16.
- (f) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the Council, must be signed by at least three (3) Councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.
- (g) A notice of motion to alter or rescind a resolution must be lodged in the following manner:

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- (i) In circumstances where the resolution of the Council has been carried, then the notice of motion to alter or rescind the resolution can be lodged at the Council meeting at which the resolution was carried; or
  - (ii) If a notice of motion to rescind a resolution relates to a Development Application it must be lodged with the General Manager by 5:00pm the next working day after the meeting at which the resolution was carried (to ensure compliance with clauses 102 (1) and (3) of the Environmental Planning and Assessment Regulation 2000).
  - (iii) In all other circumstances, the notice of motion to alter or rescind the resolution must be lodged with the General Manager within three months.
- (h) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within three (3) months. This subclause may not be evaded by substituting a motion differently worded, but is in principle, the same.
  - (i) A motion to which this clause applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.
  - (j) The provisions of this clause concerning negatived motions do not apply to motions of adjournment.

#### **34. MOTIONS OF ADJOURNMENT**

- (a) Debate shall not be permitted on any motion for adjournment of a Council meeting.
- (b) If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.
- (c) A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified. An adjourned meeting is a continuation of the same meeting, not a new meeting.

#### **35. COMMITTEE OF THE WHOLE**

- (a) During the course of a Council meeting, Council may resolve itself into a Committee of the Whole to consider any matter before the Council. That part of the Council meeting then becomes a committee meeting.
- (b) All the provisions of this Code relating to meetings of the Council extend to and govern the proceedings of a Committee of the Whole, except the provision limiting the number and duration of speeches.
- (c) To move into a Committee of the Whole, Council requires a motion to be moved and seconded; a subsequent motion is required to be moved and seconded to resume the Council meeting. The motions shall be recorded in the Minutes of the Council meeting.
- (d) The Committee of the Whole may not pass a Council resolution. It makes recommendations to Council. Once the Council meeting has resumed Council considers any recommendations made by the Committee.
- (e) AlburyCity has traditionally referred to the Committee of the Whole meeting procedures as "Standing Orders".

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## PART 4 – KEEPING ORDER AT MEETINGS

### 36. QUESTIONS OF ORDER

- (a) The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
- (b) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- (c) The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- (d) The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### 37. ACTS OF DISORDER

- (a) Councillor
  - (i) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of the Council:
    - (1) contravenes the Act, any regulation in force under the Act, Council's Code of Conduct or this Code; or
    - (2) assaults or threatens to assault another Councillor or person present at the meeting; or
    - (3) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or Committee, or addresses or attempts to address the Council or Committee on such a motion, amendment or matter; or
    - (4) insults or makes personal reflections on or imputes improper motives to any other Councillor or person; or
    - (5) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
    - (6) reads at length from any correspondence, report or other document, without the leave of the Council.
  - (ii) The Chairperson may require a Councillor:
    - to apologise without reservation for an act of disorder referred to in clause 37(i) (1) or (2); or
    - to withdraw a motion or an amendment referred to in clause 37(i)(3) and, where appropriate, to apologise without reservation; or
    - to retract and apologise without reservation for an act of disorder referred to in clause 37(i)(4) or (5).
    - to cease immediately in the case of a breach of clause 37(i)(6).
  - (iii) A Councillor may, as provided by clause 59(d), be expelled from a meeting of the Council or Committee of the Council for having failed to comply with a requirement under subclause (ii). The expulsion of a Councillor from the meeting by reason of

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subclause (ii) does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

(b) Members of the Public

(i) A member of the public commits an act of disorder if that person, at a meeting of the Council or a Committee of the Council:

- contravenes the Act, any regulation in force under the Act or this Code; or
- assaults or threatens to assault another person or Councillor present at the meeting; or
- Addresses or attempts to address the Council or Committee on any matter, without the leave of Council; or
- insults or makes personal reflections on or imputes improper motives to any Councillor or person; or
- says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
- reads at length from any correspondence, report or other document, without the leave of the Council or Committee.

### 38. HOW DISORDER AT A MEETING MAY BE DEALT WITH

- (a) If disorder occurs at a meeting of the Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, or Committee of the Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors.
- (b) A member of the public may, as provided by clause 59(d) be expelled from a meeting of the Council or Committee of the Council for engaging in or having engaged in disorderly conduct at the meeting.
- (c) A Councillor may, as provided by subclause (b), be expelled from a meeting of the Council or Committee of the Council for engaging in or having engaged in disorderly conduct at the meeting.

### 39. POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION

If a Councillor or a member of the public fails to leave the place where a meeting of the Council or Committee of the Council is being held:

- (a) Immediately after the Council or Committee of the Council has passed a resolution expelling the Councillor or member from the meeting; or
- (b) where the Council or Committee of the Council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,

a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place, and, if necessary, restrain the Councillor or member from re-entering that place.

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## **PART 5 – COUNCIL COMMITTEES**

This Part relates to the enabling of Committees under the Local Government Act 1993.

### **40. COUNCIL MAY APPOINT COMMITTEES UNDER CLAUSE 260 OF THE REGULATION**

- (a) The Council may appoint or elect such Committees by resolution as it considers necessary.
- (b) Such a Committee is to consist of the Mayor and such number of Councillors of the Council as the Council decides.
- (c) The quorum for a meeting of such a Committee is to be:
  - (i) the number of members as the Council decides; or
  - (ii) if the Council has not decided a number - a majority of the members of the Committee.

### **41. FUNCTIONS OF COMMITTEES**

The Council must specify the functions of each of its Committees when the Committee is appointed or elected, but may from time to time amend those functions.

### **42. NOTICE OF COMMITTEE MEETINGS TO BE GIVEN**

- (a) The General Manager of the Council must send to each Councillor, at least five days before each meeting of the Committee, a notice specifying:
  - (i) the time and place at which and the date on which the meeting is to be held; and
  - (ii) the business proposed to be transacted at the meeting.
- (b) However, notice of less than five days may be given of a Committee meeting called in an emergency.
- (c) The provisions of clause 15 (b) to (e) apply to the agendas of Committee meetings in the same manner as they apply to the agendas of meetings of the Council.

### **43. NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS**

A Councillor who is not a member of a Committee of the Council is entitled to attend and speak at, but is not entitled to put business on the Committee's Agenda, move or second a motion at the meeting or vote.

### **44. MEETING PROCEDURE IN COMMITTEES**

- (a) Each Committee of the Council may regulate its own meeting procedure.
- (b) Without limiting clause 45(a), a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.
- (c) Voting at a Committee meeting is to be by open means, by a show of hands.

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#### 45. COMMITTEES TO KEEP MINUTES

- (a) Each Committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept.
- (b) As soon as the minutes of an earlier meeting of a Committee of the council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

#### 46. CHAIRPERSON OF COMMITTEES

- (a) The Chairperson of each Committee of the Council, must be:
  - (i) the Mayor; or
  - (ii) if the Mayor does not wish to be the Chairperson of a Committee - a member of the Committee elected by the Council; or
  - (iii) if the Council does not elect such a member - a member of the Committee elected by the Committee.
- (b) The Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- (c) If neither the Chairperson nor the Deputy Chairperson of a Committee of the Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be acting Chairperson of the Committee.
- (d) The Chairperson is to preside at a meeting of a Committee of the Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.
- (e) The procedure for the election of Chairperson is in accordance with clause 10 (c) to (g).
- (f) The Mayor is, by virtue of holding that office, a member of each Committee of the Council.

#### 47. ABSENCE FROM COMMITTEE MEETINGS

- (a) A member ceases to be a member of a Committee if the member (other than the Mayor);
  - (i) has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
  - (ii) has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.
- (b) Subclause (a) does not apply if all of the members of the Council are members of the Committee.

**Note:** The expression "year" means the period beginning 1 July and ending the following 30 June. See the Dictionary to the Act.

#### **48. REPORTS OF COMMITTEES**

- (a) If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (b) The recommendations of a Committee of the Council are, in so far as adopted by the Council, resolutions of the Council.
- (c) If a Committee of a Council makes a recommendation to Council, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
  - (i) make the recommendation to Council public as soon as practicable after the meeting or part of the meeting has ended; and
  - (ii) report the recommendation to Council to the next meeting of the council.

#### **49. DISORDER IN COMMITTEE MEETINGS**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of Committees of the Council in the same way as they apply to meetings of the Council.

#### **50. COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETINGS**

- (a) If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with clause 59(b), any person who is not a Councillor may be expelled from the meeting as provided by clause 59(d) of this Code.
- (b) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, Committee, or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place, and, if necessary, restrain that person from re-entering that place.

#### **51. COUNCIL MAY APPOINT COMMITTEES UNDER SECTION 355(B) OF THE ACT**

- (a) The Council may appoint or elect such Committees as it considers necessary. These Committees can contain persons who are not Councillors.
- (b) The Council must specify the functions of each of these Committees when the Committee is appointed or elected, but may from time to time amend these functions.
- (c) A Committee can exercise a Council's Regulatory function under Chapter 7 of the Act only if all its members are either Councillors or Council Employees.
- (d) These Committee meeting procedures will follow the principles outlined in this Code of Meeting Practice with one exception, that is, the meetings are closed to the public and media unless public access is resolved by Council.

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## **PART 6 – PECUNIARY INTERESTS AND NON-PECUNIARY INTERESTS**

### **52. PECUNIARY INTEREST**

- (a) For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in clause 53.
- (b) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in clause 54.

### **53. PERSONS WHO HAVE A PECUNIARY INTEREST**

- (a) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - (i) the person; or
  - (ii) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person; or
  - (iii) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.
- (b) However, a person is not taken to have a pecuniary interest in a matter as referred to in subclause (a)(ii) or (iii):
  - (i) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, employer or company or other body; or
  - (ii) just because the person is a member of, or employed by a council or a statutory body or is employed by the Crown;
  - (iii) Just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as if the person has no beneficial interest in any shares of the company or body.

### **54. INTERESTS THAT NEED NOT BE DECLARED**

The following interests do not need to be disclosed for the purposes of this Part:

- (a) an interest as an elector;
- (b) an interest as a ratepayer or a person liable to pay a charge;
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part;
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part;

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- (e) an interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not);
- (f) an interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the Committee member has been appointed to represent the organisation or group on the Committee;
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument, other than an instrument that effects a change of permissible uses of:
  - (i) land in which the person or another person, company or body referred to in clause 53(a)(ii) or (iii) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
  - (ii) land adjoining, or adjacent to, or in proximity to land referred to in clause 54(g)(i); or
  - (iii) if the person or the person, company or body referred to in clause 53(a)(ii) or (iii) would by reason of the proprietary interest have a pecuniary interest in the proposal.
- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company;
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the Committee) of the association or is a partner of the partnership;
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation;
  - (ii) security for damage to footpaths or roads;
  - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract;
- (k) an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor);
- (l) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under section 252 of the Act;
- (m) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor;

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- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of any employee who is a relative of the person;
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as Councillor or member of a council Committee;
- (p) an interest arising from appointment of a Councillor to a body as representative or delegate of the delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

## 55. DISCLOSURE AND PARTICIPATION IN MEETINGS

- (a) A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest *and the nature of the interest* to the meeting as soon as practicable.
- (b) A general notice of disclosure made pursuant to section 454 of the Act fulfils the requirement of subclause (a).
- (c) The Councillor or member must not be present at, or in sight of, the meeting of the council or Committee:
  - (i) At any time during which the matter is being considered or discussed by the council or Committee, or
  - (ii) At any time during which the council or Committee is voting on any question in relation to the matter.

The Councillor is not counted for the purpose of a quorum for that matter.

- (d) A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- (e) A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

**Note:** Section 458 of the Act provides that the Minister may in certain circumstances allow a Councillor or a member of a Committee of a Council who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter.

## 56. DISCLOSURES TO BE RECORDED

A disclosure made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

## 57. NON-PECUNIARY CONFLICT OF INTEREST

- (a) Where practical, Councillors should advise the Chairperson in writing of this conflict at the beginning of the meeting (a standard form is available).
- (b) If a conflict arises during a Council or Committee Meeting, Councillors must inform the meeting of the interest. Depending upon the nature of the conflict, the Councillor needs to decide whether or not to participate in consideration of, or voting on the matter.

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- (c) To comply with clauses 4.12 to 4.19 of Council’s adopted Model Code of Conduct, non-pecuniary conflict of interests should be declared based on the following:
  - (i) If the Councillor decides the conflict is “significant”, the Councillor must declare a non-pecuniary interest, not be eligible to vote, and leave the Chamber;
  - (ii) If the Councillor decides the conflict is “less than significant”, the Councillor must declare a non-pecuniary interest, and determine their action.
- (d) the disclosure of a conflict must be recorded in the minutes of the meeting.

## **PART 7 – MEDIA AND PUBLIC**

### **58. PUBLIC NOTICE OF MEETINGS**

- (a) The Council must give notice to the media and public of the times, dates and places of its meetings and meetings of those of its Committees of which all the members are Councillors.
- (b) The Council and each such Committee must have available for the media and public at its offices and at each meeting copies (for inspection and taking away by persons) of the agenda for the meeting. This requirement does not apply to the agenda for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the media and public.
- (c) The copies are to be available to the media and public as nearly as possible to the time they are available to Councillors.
- (d) The copies are to be available free of charge.

### **59. ATTENDANCE AT MEETINGS OF THE COUNCIL**

- (a) The media and public are entitled to attend Ordinary and Extraordinary Meetings of the Council and Meetings of Special Committees, except as provided by this clause.
- (b) The Council or such a Committee may close to the media and public only so much of its meeting as comprises the receipt or discussion of any of the following:
  - (i) personnel matters concerning particular individuals (other than Councillors);
  - (ii) the personal hardship of any resident or ratepayer;
  - (iii) Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
  - (iv) commercial information of a confidential nature that would, if disclosed
    - prejudice the commercial position of the person who supplied it, or
    - confer a commercial advantage on a competitor of the Council, or
    - reveal a trade secret;
  - (v) advice concerning litigation; or advice which would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege;
  - (vi) information the disclosure of which would prejudice the maintenance of law;

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- (vii) matters affecting the security of the Council, Councillors, Council staff or Council property;
- (viii) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

A motion to close the meeting to the public is required.

A Council, or a Committee of the Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

A Council, or a Committee of a Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

- (c) The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting. The grounds must specify the following:
  - (i) the relevant provision of subclause (b) (i-viii);
  - (ii) the matter that is to be discussed during the closed part of the meeting;
  - (iii) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which the discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
- (d) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting:
  - (i) by a resolution of the meeting; or
  - (ii) by the person presiding at the meeting, if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (e) Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

## 60. PUBLIC FORUM

- (a) Public forums are to be chaired by the Mayor or their nominee.
- (b) To speak at a public forum, a person must first make an application to the Council in the approved form. Applications to speak at the public forum must be received by 12:00pm on the day on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on.
- (c) A person may apply to speak on no more than one item of business on the agenda of the Council Meeting.
- (d) Nominated candidates at federal, state or local government elections and serving Councillors are not permitted to speak at a public forum.

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- (e) Legal representatives acting on behalf of others are not to be permitted to speak at a public forum.
- (f) Approved speakers at the public forum are to register with the Council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs at least 24 hours before the public forum. The General Manager or their delegate may refuse to allow such material to be presented.
- (g) The Mayor or their delegate is to determine the order of speakers at the public forum.
- (h) Each speaker will be allowed 5 minutes to address the Council. This time is to be strictly enforced by the Chairperson.
- (i) Speakers at public forums must not digress from the item on the agenda of the Council meeting they have applied to address the Council on. If a speaker digresses to irrelevant matters, the Chairperson is to direct the speaker not to so digress. If a speaker fails to observe a direction from the Chairperson, the speaker will not be further heard.
- (j) A Councillor (including the Chairperson) may, through the Chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument. Speakers are under no obligation to answer questions put. Answers by the speaker to each question are to be limited to 2 minutes.
- (k) The General Manager or their nominee may, with the concurrence of the Chairperson, address the Council for up to 3 minutes in response to an address to the Council at a public forum after the address and any subsequent questions and answers have been finalised.
- (l) Where an address made at a public forum raises matters that require further consideration by Council staff, the General Manager may recommend that the Council defer consideration of the matter pending the preparation of a further report on the matters.
- (m) When addressing the Council, speakers at public forums must comply with this Code and all other relevant Council Codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the Council's Code of Conduct or making other potentially defamatory statements.
- (n) If the Chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in subclause (m), the Chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the Chairperson's request, the Chairperson may immediately require the person to stop speaking.
- (o) Subclause (n) does not limit the ability of the Chairperson to deal with disorderly conduct by speakers at public forums.
- (p) Where a speaker engages in conduct of the type referred to in subclause (m), the General Manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the General Manager or their delegate considers appropriate.
- (q) Councillors (including the Mayor) must disclose and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do at a Council or Committee Meeting.

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## 61. PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS

- (a) The Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (b) This clause does not apply if the correspondence or reports:
  - (i) relate to a matter that was received or discussed; or
  - (ii) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

## PART 8 – MISCELLANEOUS

### 62. INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED

- (a) A person must not disclose any information obtained in connection with the administration or execution of the *Local Government Act 1993* unless that disclosure is made:
  - (i) with the consent of the person from whom the information was obtained; or
  - (ii) in connection with the administration or execution of the *Local Government Act 1993*; or
  - (iii) for the purposes of any legal proceedings arising out of the *Local Government Act 1993* or of any report of any such proceedings; or
  - (iv) in accordance with a requirement imposed under the Ombudsman Act 1974, the *Government Information (Public Access) Act 2009*; or
  - (v) with other lawful excuse.
- (b) If a meeting or part of a meeting of the Council or a Committee of the Council is closed to the public in accordance with clause 59(b), a person must not, without the authority of the Council or the Committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.
- (c) Subclause (b) does not apply to:
  - (i) the report of a Committee of the Council when presented to the Council; or
  - (ii) disclosure made in any of the circumstances referred to in clause 61(a); or
  - (iii) disclosure made in circumstances prescribed by the regulations.
- (d) For the purpose of subclause (c) (iii), any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the *Local Government Act 1993* is a prescribed circumstance.

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### 63. INSPECTION OF THE MINUTES OF THE COUNCIL OR A COMMITTEE

- (a) Any inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- (b) The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

**Note:** Section 12 of the Act confers a right to inspect the minutes of a Council or Committee of a Council.

### 64. ACCESS TO RECORDS

- (a) The General Manager may allow or refuse to allow any Councillor to inspect any record of the Council that the Councillor requests to see.
- (b) If the General Manager refuses to allow a Councillor to inspect any such record, the Councillor may, at a meeting of the Council, move for the production of the document. However, the Councillor must give notice of intention to move the motion.
- (c) If the Council passes a motion for the production of a Council record, the Council must ensure that the record:
  - (i) is produced immediately and laid on the table for inspection by the Councillors; and
  - (ii) is made available for inspection by any Councillor on reasonable notice to the General Manager during the Council's ordinary office hours on any day that is within one (1) month after the passing of the motion.
- (d) Nothing in this clause derogates from the common law right of Councillors to inspect any record of the Council relating to any business before the Council, except where the Councillor requesting inspection has a pecuniary interest in the matter.

### 65. RECORDING OF ANY MEETING OF THE COUNCIL, A COMMITTEE OF THE COUNCIL, COUNCILLOR WORKSHOP OR COMMUNITY FORUM IS PROHIBITED WITHOUT PRIOR PERMISSION

- (a) An electronic recording device to record the proceedings of a meeting of the Council, a Committee of the Council, Councillor Workshop or Community Forum is not permitted without the prior written permission of the General Manager or their delegate.
- (b) A person may, as provided by clause 59(d), be expelled from a meeting of the Council, a Committee of the Council, Councillor Workshop or Community Forum for using or having used an electronic recording device in contravention of this clause.
- (c) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and if necessary, restrain the person from re-entering, that place.
- (d) In this clause, an electronic recording device includes any electronic device capable of recording images and/or sound.

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- (e) Still photography is not permitted at a meeting of the Council, a Committee of the Council, Councillor Workshop or Community Forum without the express written permission of the General Manager or their delegate.

**66. RECORDING AND WEBCASTING BY COUNCIL OF COUNCIL AND COMMITTEE MEETINGS AND AUDIO RECORDING OF COMMUNITY FORUMS**

- (a) Council records and webcasts (live streams) all meetings of Council and Committee meetings – except those parts of the meeting referred to in Sec 10A(2) of the Act. Confidential sessions may be audio recorded only for administrative and minute preparation purposes.
- (b) Council webcasts of meetings are kept and will be made available for later viewing via Council's website.
- (c) All agendas for meetings of the Council and Council Committees will list in the agenda that the meeting is being recorded and webcast. The Chairperson will advise those present that the meeting is being recorded and webcast and appropriate signage will be displayed.
- (d) Council accepts no liability for any defamatory or offensive statements. In this regard, all meeting attendees are required to abide by the standards of conduct outlined in this Code.
- (e) The webcasts are protected by copyright and owned by AlburyCity. No part may be copied or recorded or made available to others without the prior written consent of the General Manager.
- (f) The webcast is not, and shall not, be taken to be an official record of AlburyCity or of any meeting or discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting.
- (g) Council will audio record all meetings of the Council, Committees of Council and Community Forums for administrative purposes in ensuring the accurate preparation of the minutes (and transcripts in the case of Community Forums) unless the Council or Committee resolves to not record the proceedings.
- (h) All agendas for meetings of the Council, Committees of the Council and Community Forums will list in the agenda that the meeting/forum is being audio recorded for administrative purposes. The Chairperson will advise those present that the meeting/forum is being audio recorded for administrative purposes and appropriate signage will be displayed.
- (i) All such audio recordings under this clause will be destroyed following the confirmation of the minutes from the meeting of the Council or Committee and in line with the destruction provisions contained in the *State Records Act 1998*.
- (j) Audio recordings of meetings of the Council, Committees of Council and Community Forums will not be released without the express written permission of the General Manager.
- (k) All aspects of the recording and webcasting of Council and Committee meetings and audio recording of Council and Committee meetings and Community Forums are contained in AlburyCity's Recording of Public Council Meeting Procedure.

**67. CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL DECISIONS**

Proceedings at a meeting of the Council or a Council Committee are not invalidated because of:

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- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any Councillor or a Committee member; or
- (c) any defect in the election or appointment of a Councillor or a Committee member; or
- (d) a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee meeting; or
- (e) a failure to comply with this Code.

## 68. AMENDMENT OF CODE

This Code may be amended only in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Act.

## 69. NOTICE OF URGENT BUSINESS

- (a) At meetings of the Council the order of business shall include a provision for Councillors to raise urgent matters of which no notice has been given in accordance with the other provisions of the Code.
- (b) Such business shall be limited to the following:-
  - (i) Requests for officers to prepare reports or provide information on a particular subject;
  - (ii) To inform the Council of specific matters and issues of importance.
- (c) In all cases a Councillor wishing to raise an urgent matter without notice shall inform the Mayor to that effect prior to the meeting.

## 70. GENERAL ORDER OF BUSINESS FOR COUNCIL AND COMMITTEE MEETINGS

1. Opening Prayer and acknowledgement of original custodians of our land (for Council Meetings only)
2. Advise that the meeting is being recorded for administrative purposes
3. Conflict of Interest Declarations received by the Chair and Disclosures of Political Donations
  - (a) Conflict of Interest Declarations
  - (b) Disclosures of Political Donations and Requirements of the *Environmental Planning and Assessment Act 1979*
4. Apologies
5. Mayoral Minute(s)
6. Action Plan/s (for Council meetings only)
  - (a) Actions complete - for noting only
  - (b) Actions awaiting response from external parties
  - (c) Actions in progress
  - (d) Long term issues (more than three months)
7. Confirmation of Minutes of Previous Meetings
8. Reports from Community Forums

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9. Matters Arising from the Minutes (for Committee Meetings only)
10. Notices of Motion/Notices of Rescission
11. Presentations and Deputations
12. Reports/Minutes of Committees and Working Parties
13. Documents for Sealing
14. Officers Reports for Consideration
15. Officers Reports for Noting
16. Delegates Reports for Noting
17. Notice of Urgent Business
18. Confidential Matters

## AUTHORISATION

<b>Owner</b>	<b>Directorate</b>	Executive – Human Resources
	<b>Responsible Officer</b>	Public Information Officer
<b>Authorisation</b>	Adopted Council 13 August 2018	
<b>Review Date</b>	Reviewed within the first 12 months of a new Council, or as required	
<b>Register</b>	Public Policy and Procedure Register	
<b>Record of Amendments</b>	21 Dec 2009	New procedure. Adopted Council following public exhibition.
	28 Oct 2013	Review. Adopted Council following public exhibition.
	23 Nov 2015	Review not adopted. Previous version publicly exhibited and adopted.
	6 Feb 2017	Resolution of Council to amend wording (24 Oct 2016 CM10.1). Resolution of Council to amend wording (12 Dec 2016 CM10.1). Amended to reflect resolutions. Adopted by Council.
	22 May 2017	Resolution of Council to amend agenda timelines (27 Feb 2017 CM10.1). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council.
	28 May 2018	Resolution by Council to disband Committees of Council (26 Mar 2018 CM10.3). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council
	13 August 2018	Resolution by Council to include a Public Forum (28 May 2018 CM10.1). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council

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