



Maribyrnong
CITY COUNCIL

Governance Local Law 2011

Adopted at Council Meeting 19 April 2011

Gazetted on 28 April 2011

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Maribyrnong City Council
Governance Local Law 2011

1. Making of Local Law

- 1.1. This Local Law will be known as the Governance Local Law 2011 and is made under Sections 5, 91 and 111 of the *Local Government Act 1989 (the Act)*.
- 1.2. Was prepared following due consideration of *the Charter of Human Rights and Responsibilities Act 2006*.

2. Objectives

- 2.1. The objectives of this Local Law are to –
 - 2.1.1. Provide a mechanism to facilitate the good government of Maribyrnong City Council through its formal meeting procedure, to ensure effective and efficient Council decisions are made in a manner which promotes the effectiveness of local government in Maribyrnong and within the Australian system of Government.
 - 2.1.2. Promote and encourage community leadership by Maribyrnong City Council consistent with the community's views and expectations.
 - 2.1.3. Promote and encourage community participation in local government by providing opportunities for direct access to the Council's decision making processes.
 - 2.1.4. Protect the integrity of the Council's Common Seal and describe when it may be affixed to a document.
 - 2.1.5. Regulate and govern the –
 - 2.1.5.1. Use of Council's Common Seal;
 - 2.1.5.2. Procedure for election of Mayor and any Deputy Mayor; and
 - 2.1.5.3. Way in which meetings of the Council and special committee meetings of the Council are conducted.

3. Commencement and End Date

- 3.1. This Local Law –
 - 3.1.1. Commences operation on the day on which notice of the making the Local Law is published in the Victoria Government Gazette; and
 - 3.1.2. Ends on the tenth anniversary of the day on which it commences operation.

4. Revocation of Local Law

- 4.1. On the commencement of this Local Law, the Governance Local Law 2001 and the Code of Meeting Procedure are revoked.

5. Application of the Local Law

- 5.1. This Local Law, the Maribyrnong City Council Meeting Procedure and the Councillor Code of Conduct applies to all meetings of Council and special committee meetings of the Council.
- 5.2. The Maribyrnong City Council Meeting Procedure will contain provisions to support the Council in meeting the requirements of *the Act* concerning meetings of the Council and the objectives in clause 2, including provisions to:
 - 5.2.1. Prescribe how motions and amendments to motions before the Council are dealt with;
 - 5.2.2. Identify the methods by which the community can participate in Council meetings;
 - 5.2.3. Manage the debate on matters before the Council; and
 - 5.2.4. Set the general standards expected in the Council's formal meeting processes.

6. Definitions

- 6.1. In this Local Law –
 - 6.1.1. “**Absolute majority**” for purposes of this Local Law means a number of votes greater than one half of the total number of votes lawfully cast in a poll attended by Councillors.
 - 6.1.2. “**Act**” means the *Local Government Act 1989*.
 - 6.1.3. “**Advisory Committee**” means any committee established by the Council which is not a Special Committee under Section 86 of *the Act*.
 - 6.1.4. “**Authorised Officer**” means an authorised officer appointed pursuant to Section 224 of *the Act*.
 - 6.1.5. “**Chair**” means the person chairing a meeting of Council or of a committee and includes an acting, temporary or substitute chair.
 - 6.1.6. “**Chief Executive Officer**” means the person who is the Chief Executive Officer of the Council appointed by Council under Section 94(1) of *the Act* or any person acting in that position.
 - 6.1.7. “**Council**” means the Maribyrnong City Council.
 - 6.1.8. “**Councillor**” means a Councillor as defined in *the Act*.
 - 6.1.9. “**Deputy Mayor**” means the Councillor elected to the position of Deputy Mayor.
 - 6.1.10. “**Mayor**” means the Mayor of the Council and any person acting

as Mayor.

- 6.1.11. “**Member**” refers to Councillors in the case of Council, all members appointed by Council to Special Committees under Section 86 of *the Act* and all members appointed by Council to Advisory Committees.
- 6.1.12. “**Ordinary Meeting**” means any meeting of Council which is not a Special Meeting.
- 6.1.13. “**Penalty units**” means penalty units as prescribed in the *Sentencing Act 1991*.
- 6.1.14. “**Special Committee Meeting**” means a meeting of a Special Committee established by Council under Section 86(1) of *the Act*.
- 6.1.15. “**Special Council Meeting**” means a Special Meeting of Council convened and held in accordance with Sections 84, 84A or 85 of *the Act*.
- 6.1.16. “**Special Meeting**” means a Special Meeting of either Council or a Special Committee in accordance with *the Act*.

7. Common Seal

- 7.1. The Common Seal may be affixed to a document following a Council resolution.
- 7.2. Where the Common Seal is affixed to a document following a Council resolution, the sealing attestation must contain the following words:

The Common Seal of the Maribyrnong City Council pursuant to a Council resolution of ____/____/____ was affixed on ____/____/____, in the presence of:
.....Chief Executive Officer
.....Witness

- 7.3. Where Council authorises the Common Seal to be affixed to any document, the Chief Executive Officer must ensure that a Common Seal register is maintained which records each time the Common Seal is affixed to a document and:
 - 7.3.1. A description of the document to which the seal was affixed;
 - 7.3.2. The date on which the Common Seal was affixed; and
 - 7.3.3. The date of the authorising Council resolution.
- 7.4. It is an offence for any person to use the Common Seal of Council or any device resembling the Common Seal without the authority of the Council.

Penalty: 10 units

8. Procedure for Election of Mayor

8.1. Election of the Mayor:

8.1.1. A meeting to elect the Mayor must be held:

8.1.1.1. As soon as practicable after the declaration of the results of a general election of Councillors;

8.1.1.2. As soon as practicable after the fourth Saturday in November, in years between general elections of Councillors (generally the first Wednesday in the month of December); or

8.1.1.3. As soon as practicable after the office of Mayor otherwise becomes vacant.

8.1.2. The Chief Executive Officer must conduct the election of the Mayor.

8.2. Method of Voting:

8.2.1. The election of the Mayor must be carried out by a show of hands and all Councillors must vote.

8.3. Determining the election of the Mayor:

8.3.1. The Chief Executive Officer must determine the most appropriate time and date for the election of Mayor having regard to the requirements in clause 8.1.

8.3.2. Until the Mayor is elected, the Chief Executive Officer is to be the temporary Chair of the meeting and returning officer (if not the Chief Executive Officer, a returning officer appointed by the Chief Executive Officer) for the election of the Mayor.

8.3.3. The Chief Executive Officer must open the meeting at which the Mayor is to be elected, and invite nominations for the office of Mayor.

8.3.4. A Councillor may nominate another Councillor or themselves as a candidate.

8.3.5. Nominations for Mayor do not require seconding. Once nominations for the office of Mayor have been received, the following provisions will govern the election of the Mayor.

8.3.6. If only one candidate is nominated, the Chief Executive Officer must declare that candidate elected as Mayor.

8.3.7. If more than one candidate is nominated, Councillors must vote for their preferred candidate.

8.3.8. Where two candidates have been nominated, the candidate with the absolute majority of votes cast must be declared elected as Mayor.

8.3.9. Where two candidates have been nominated and there is an equal number of votes cast, the vote will be re-cast and if after

the re-cast of votes there is an equal number of votes the candidate whose name is drawn by lot will be declared elected as Mayor.

- 8.3.10. Where more than two candidates have been nominated, the candidate that has received an absolute majority of votes cast will be declared elected as Mayor.
- 8.3.11. Where more than two candidates have been nominated and no candidate receives an absolute majority of votes cast, the candidate with the fewest number of votes must be eliminated. If more than one candidate has the fewest number of votes, then the candidate to be eliminated must be determined by a simple majority vote.
- 8.3.12. A further vote must then be undertaken for the remaining candidates.
- 8.3.13. This procedure must be repeated until one of the candidates receives an absolute majority of votes.
- 8.3.14. If it is necessary to determine the election of the Mayor by lot, the Chief Executive Officer (or the person appointed as returning officer by the Chief Executive Officer) will conduct the lot and the following provisions will apply:
 - 8.3.14.1. Each candidate will draw one lot.
 - 8.3.14.2. The order of drawing lots will be determined by the alphabetical order of the family names of the Councillors who received an equal number of votes except that if two or more such Councillors' family names are identical, the order will be determined by the alphabetical order of the Councillors' first names.
 - 8.3.14.3. As many identical ballot papers as there are Councillors who received an equal number of votes must be placed in a ballot box. If the lot is being conducted to determine who is a defeated candidate, the word "Defeated" must be written on one of the ballot papers, and the Councillor who draws the ballot paper with the word "Defeated" written on it must be declared the defeated candidate (in which event a further vote must be taken on the remaining candidates unless there is only one candidate remaining, in which case that candidate will be declared to have been duly elected as Mayor).

9. Election of Deputy Mayor

- 9.1. At a meeting to elect the Mayor, Council may determine to elect a Deputy Mayor.
- 9.2. Any election for the position of Deputy Mayor will follow the same process as for the election of the Mayor prescribed in clause 8.
- 9.3. The Mayor will conduct the election process.

- 9.4. The position of Deputy Mayor becomes vacant in the circumstances set out in relation to a Mayor in sections 72(1)(a) to (d) of *the Act*.
- 9.5. During any period that the Mayor is absent or unable to act in that position, the Council must appoint a Councillor to act as the Mayor but in making that appointment the Council shall give preference to appointing the Deputy Mayor, if there is one.
- 9.6. When acting in the position of Mayor, the Deputy Mayor may perform any function or exercise any power conferred on the Mayor.

10. Order of Business at the meeting to Elect the Mayor

- 10.1. At the meeting to elect the Mayor and Deputy Mayor the agenda for the meeting may include:
 - 10.1.1. Welcome
 - 10.1.2. Present
 - 10.1.3. Apologies
 - 10.1.4. Leave of Absence
 - 10.1.5. Conflicts of Interest
 - 10.1.6. Election of Mayor
 - 10.1.7. Determination/election of Deputy Mayor
 - 10.1.8. Mayoral allowance
 - 10.1.9. Councillor allowance
 - 10.1.10. Meeting closure.

11. Offences

- 11.1. In addition to the offence in clause 7(3):
 - 11.1.1. A Councillor who fails to withdraw a remark which is considered by the Chair to be defamatory, indecent abusive, offensive disorderly or objectionable in language, substance or nature and who has failed to satisfactorily apologise when called upon twice by the Chair to do so;
 - 11.1.2. A person who has been called to order for any improper or disorderly conduct and who refuses to leave the meeting when requested by the Chair to do so; or
 - 11.1.3. A person, including a Councillor, who fails to obey a direction of the Chair relating to the conduct of the meeting or the maintenance of order at the meeting is guilty of an offence against this Local Law .

Penalty: 10 penalty units

12. Infringement Notices

- 12.1. As an alternative to prosecution for an offence, an authorised officer may issue an infringement notice containing the information required by the *Infringements Act 2006*.
- 12.2. A person issued with an infringement notice can decide not to pay the penalty amount in the notice within the time required in the notice and defend the prosecution in court.
- 12.3. If the penalty amount in the infringement notice is paid within 28 days or the notice is withdrawn by an authorised officer within that time the person on whom the infringement notice was served will be considered to have expiated the offence.
- 12.4. If a person does not pay the penalty amount within 28 days or any extended time period that the authorised officer has permitted or the notice is not withdrawn the authorised officer may pursue the matter by prosecuting for the offence or by taking the steps available under the *Infringements Act 2006* for enforcing penalties by registration of infringement notices.
- 12.5. The penalty amount for an offence against this Local Law for which an infringement notice is issued is the amount in Schedule 1.

Schedule 1: Penalties Fixed for Infringement Notices

Provision	Offence	Penalty Units
Clause 7.3	Using the Common Seal of Council or any device resembling the Common Seal without the authority of the Council.	5
Clause 11.1.1	Refusing to withdraw a remark which is considered by the Chair to be defamatory, indecent, abusive, offensive, disorderly or objectionable in language, substance or nature, and not satisfactorily apologising when called upon twice by the Chair to do so.	5
Clause 11.1.2	Failing to obey a request of the Chair when called to order for any improper or disorderly conduct and refusing to leave the meeting when requested by the Chair to do so.	5
Clause 11.1.3	Failing to obey a direction of the Chair relating to the conduct of the meeting or the maintenance of order at the meeting.	5