



LOCAL LAW NO 1

GOVERNANCE

(2016)

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1. Making of Local Law

This Local Law is the Horsham Rural City Council Local Law No 1 – Governance (2016) and referred to below as this Local Law. It is established in accordance with Section 91(1) of the *Local Government Act 1989* and was prepared following due consideration of the *Charter of Human Rights and Responsibilities Act 2006*.

2. Objectives of this Local Law

The objectives of this Local Law are to:-

- (a) provide a mechanism to facilitate the good government of the Horsham Rural City Council through its formal meeting procedure to ensure effective and efficient Council decisions are made in a manner which acknowledges the role of Local Government within the Australian system of Government;
- (b) to regulate and control the election of Mayor, any Deputy Mayor and the chairperson of any Special Committees;
- (c) to regulate and control the procedures governing the conduct of meetings including:-
 - (i) the notice required for meetings; and
 - (ii) the keeping of Minutes;
- (d) to regulate and control the use of the Council's Common Seal;
- (e) to provide for the administration of the Council's powers and functions; and
- (f) to provide generally for the peace, order and good government of the municipal district.

3. Application of this Local Law

3.1 This Local Law, the Meeting Procedure (as amended from time to time) and the Councillor Code of Conduct (as amended from time to time) will apply to all meetings of Council and to all Special Committees of Council.

3.2 Under the Local Government Act 1989 Section 112 (1), the Horsham Rural City Council Meeting Procedure is incorporated into this Local law by reference. This procedure contains provisions to support the Council in meeting the requirements of the Act concerning meetings of the Council, including provisions to:

- set the general standards expected in the Council's formal meeting processes;
- prescribe how motions and amendments to motions before the Council are dealt with;
- to promote and encourage community participation in the system of Local Government by providing mechanisms for the Council to ascertain the community's views and expectations;
- identify the methods by which the community can participate in Council meetings; and
- manage the debate on matters before the Council.

4. The power to make this Local Law

The Council's power to make this Local Law is contained in Sections 5, 91 and 111 of the *Local Government Act 1989* (Vic).

5. Operational Date of this Local Law

This Local Law comes into operation on 2 February 2016.

6. Date this Local Law ceases operation

Unless sooner revoked this Local Law ceases to operate on the date 10 years following its making pursuant to section 122(1) of the *Local Government Act 1989* (Vic).

7. Revocation of other Local Laws and By-Laws

From the date of operation of this Local Law the Local Law No 1 – 2006 Processes of Municipal Government (Procedures for Meetings) will cease to operate and is revoked.

8. Definitions

Act - The *Local Government Act 1989* (Victoria) as from time-to-time amended

Authorised Officer - An authorised Officer appointed under Section 224(1) of the Act

Chair - Refers to the Chairperson

Chairperson - The person who chairs a meeting of the Council or Special Committee of the Council

Chief Executive Officer - The person appointed as Chief Executive Officer of the Horsham Rural City Council or a person Acting as Chief Executive Officer

Council - The Mayor and Councillors of the Horsham Rural City Council

Councillor - A person who is an elected member of the Council and so far as practicable extends to any member of any Special Committee of the Council

Council Meeting/Meeting of the Council - Includes Ordinary and Special Meetings of the Council

Deputy Mayor - A Councillor appointed as Deputy to the Mayor

Horsham Rural City Council Meeting Procedure – a document adopted by Council, which may be revised or amended from time-to-time by Council in accordance with clause 14 of this Local Law. The procedure aims to achieve the objectives as set out in clause 3 of this Local Law

Mayor - Also known as the Chairperson, means a Councillor appointed as Mayor of the Horsham Rural City Council, and any person acting as Mayor.

Municipal District - The area from time to time comprising the municipality

Penalty Unit - The amount of a fine payable for an offence, fixed by the Treasurer of Victoria under section 5(3) of the *Monetary Units Act 2004*

Replica - In relation to the Common Seal of Council means any representation which purports to be, looks like or is capable of being mistaken for the common seal whether fixed to or printed on a document or advertisement or sign and includes any use of a symbol resembling the common seal which is capable of misleading a person into believing it is used with the authority of the Council

Returning Officer – A member of council staff who undertakes the duties assigned to this position in any election process contained herein

Senior Officer - A member of Council staff who has management responsibilities and reports direct to the Chief Executive Officer, as defined under Section 3 (1) of the Act

Special Meeting – A meeting of Council at which only the business specified in the public notice of the meeting may be transacted

Special Committee – in accordance with the Act, a Special Committee is a committee established by Council under section 86 or that exercises a power, or performs a duty or function, of the Council that has been delegated to that committee under any Act. Special Committees may be comprised of:

- (a) Councillors;
- (b) Council staff;
- (c) other persons;
- (d) any combination of persons referred to in paragraphs (a), (b) and (c).

Statutory Meeting - The Annual Meeting of the Council held for the purpose of:-

- swearing in of Councillors elected at the General Election of the Council; and
- electing a Mayor in accordance with Section 71 of the Act; and
- fixing any allowance in accordance with Section 74 of the Act

9. Common Seal

9.1 The Chief Executive Officer must ensure the security of the Council's Common Seal at all times.

9.2 The Council's Common Seal may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the Chief Executive Officer or some other Senior Officer authorised by him or her and one Councillor.

9.3 Documents requiring the seal may be signed in advance of a Council meeting and reported to the next Council meeting.

9.4 Any person who uses the Council's Common Seal without authority is guilty of an offence.

Penalty: Ten (10) Penalty Units

9.5 Any person who uses any replica of the Council's Common Seal without authority is guilty of an offence.

Penalty: Ten (10) Penalty Units

In determining the style of its Common Seal from time to time, the Council may take into consideration any matter which is unique to the municipal district or of any trends in the Local Government industry generally.

10. Procedure for Election of Mayor

10.1 The meeting to fill the vacancy of Mayor will be held in accordance with section 71 of the Act.

10.2 The Chief Executive Officer will determine the most appropriate time and date for the election of the Mayor, taking into account such things as:-

- (i) the requirements to finalise any election;
- (ii) the Council's normal meeting schedule;
- (iii) the availability of Councillors;
- (iv) any special needs or requirements of a disabled Councillor and reasonable adjustments which may be achievable;
- (v) the Council's and community's wishes; and
- (vi) any other matter which the Chief Executive Officer considers appropriate.

10.3 Election of temporary Chairperson - At any meeting to elect the Mayor at which a quorum is obtained, a Councillor, elected by simple majority of the Councillors present, will be the temporary Chairperson or if that is not possible then the Chief Executive Officer will be the temporary Chairperson, to deal with:-

- (i) the receipt of nominations for the election of Mayor; and
- (ii) the election of Mayor.

10.4 The election of Mayor will be carried out by a show of hands.

10.5 Determining the election of the Mayor:

10.5.1 For the purposes of electing the Mayor, the Chief Executive Officer or their appointee is to be the returning officer.

- 10.5.2 The Temporary Chair must open the meeting at which the Mayor is to be elected and invite nominations for the office of Mayor.
- 10.5.3 A Councillor may nominate another Councillor or themselves as a candidate.
- 10.5.4 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:
- (i) if only one candidate is nominated, the Temporary Chair must declare that candidate elected as Mayor.
 - (ii) if more than one candidate has nominated, Councillors must vote for their preferred candidate.
 - (iii) if more than one candidate has nominated, the Councillor who receives the majority of votes cast must be declared elected.
 - (iv) where there are two or more nominations and all votes cast are equally divided between two or more nominees, the election must be determined by lot in accordance with paragraph 10.5.4 (vi).
 - (v) where there are more than two nominations received and the result has not been determined under paragraph (iii) and (iv), the candidate with the least number of votes cast must be eliminated (and if more than one of them, one candidate determined by lot) and the names of the remaining candidates must be put to the vote again. This procedure must continue until there are only two candidates remaining and when only two candidates remain, then paragraph (ii) & (iii) applies.
 - (vi) if it is necessary to determine an election by lot, the temporary Chair must place the names of the remaining candidates in a container and the candidate whose name is drawn first by the returning officer will be declared elected as Mayor.

11. Procedure for Election of Deputy Mayor

- 11.1 Any election of a Deputy Mayor will be made immediately following the election of a Mayor and the decision to undertake an election will first be decided upon by a resolution of the Council.
- 11.2 Any election will be undertaken by the Mayor and follow the same procedure as that for an election of the Mayor.
- 11.3 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.

12. Acting Council Chairperson

12.1 During any period that the Mayor is absent or unable to act in that position, the Council must by resolution appoint a Councillor to act as the Chairperson, but in making that appointment the Council shall give preference to appointing the Deputy Mayor, if there is one.

12.2 When a Councillor is acting in the position of Chairperson then that Councillor may perform any function or exercise any power conferred on the Mayor.

13. Chairperson of a Special Committee

Where a Special Committee comprises only Councillors or a combination of Councillors (including the Mayor) and Council staff only, the Mayor will be chairperson. If a Special Committee comprises a combination of Councillors (not including the Mayor but including any Deputy Mayor), then the Deputy Mayor will be chairperson.

If a Special Committee includes any other persons, the election of Chair shall be conducted once annually and, so far as practicable, in accordance with the provisions of this Local Law for the election of Mayor.

14. Horsham Rural City Council Meeting Procedure

In conjunction with the adoption of this Local Law, the Horsham Rural City Council will adopt and maintain a meeting procedure reflecting the objectives contained in clause 3 of this Local Law and it will come into effect concurrent with the commencement of this Local Law.

Having adopted the meeting procedure, it will only be possible to amend the procedure by the tabling of a Notice of Motion on the agenda of the next appropriate Ordinary Council Meeting.

In accordance with Section 112 (2) of the Act, once the procedure has been adopted by council it will not come into force until Council causes notice to be published in the Victoria Government Gazette.

15. Offences

15.1 Where any provision in this Local Law requires that something may not be done at all, any person who does that act is guilty of an offence.

15.2 Where any provision in this Local Law requires that something must be done, any person who fails to do that act is guilty of an offence.

16. Penalties

In addition to the offences in clause 9, Schedule 1 of this Local Law sets out penalties for infringement notice purposes which may be issued as an alternative to prosecution in respect of offences against this Local Law where the Council or its Authorised Officers determine to proceed by infringement notice.

17. Infringement Notices

17.1 Any person who has committed an offence against this Local Law may be prosecuted in the State of Victoria.

17.2 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 (Vic) in the form set out in Schedule 2.

17.3 To avoid prosecution, the penalty indicated must be paid within 28 days after the day on which the infringement notice is issued or within an extended time period as permitted by the authorised officer.

- (i) If payment is made within the time allowed, the offence is deemed to be discharged.
- (ii) If payment is not made within the time allowed and the notice is not withdrawn the authorised officer may pursue the matter by:
 - a. prosecuting for the offence; or
 - b. taking the steps available under the *Infringements Act 2006 (Vic)* for enforcing penalties by registration of infringement notices.

NOTE: A person issued with an infringement notice is entitled to disregard the notice and defend the prosecution in court. The fixed penalty amounts in respect of offences against this Local Law are set out in Schedule 1.

18. Payment of Penalty

A person issued with an infringement notice may pay the penalty indicated to:

Chief Executive Officer
Horsham Rural City Council
PO Box 511
HORSHAM VIC 3402

SCHEDULE 1

PENALTIES FOR INFRINGEMENT NOTICE PURPOSES IN RESPECT OF OFFENCES AGAINST THIS LOCAL LAW 1

Penalty Units

Failure to comply with Chairperson's direction 10

Fraudulently signing a petition 10

Failure 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 10

A "Penalty Unit" means the amount of a fine payable for an offence, fixed by the Treasurer of Victoria under section 5(3) of the *Monetary Units Act 2004*.

One penalty unit is currently \$151.67 from 1 July 2015 to 30 June 2016.

SCHEDULE 2

INFRINGEMENT NOTICE

Date of Notice:No. of Notice:

To:

(Surname) (Other Names)

.....

(Address)

I, (full name of Authorised Officer) being a duly Authorised Officer of the Horsham Rural City Council have reason to believe that you have committed an offence against Local Law Number 1 Governance of the Council. The nature of the alleged offence and the amount of the penalty is indicated by the ticked box below:-

Local Law Number	Clause Number	Nature of Infringement	Applicable* Penalty Units
[]	[]	[]	[]

Other particulars of alleged offence:-

Date Time Location

If you pay the penalty indicated within 28 days from the date of this notice to the Horsham Rural City Council:-

By CHEQUE or MONEY ORDER for the FULL AMOUNT posted to PO Box 511, Horsham, 3402.
By CHEQUE or MONEY ORDER or CASH to the Municipal Offices at Roberts Avenue, Horsham, 3402 or Main Street, Natimuk, 3409 (Thursdays only),

this matter will not be brought to Court and no conviction will be recorded.

You are entitled to disregard this infringement notice and defend the prosecution for the offence in Court.

Should you wish to make any submission concerning this infringement notice, contact should be made with the Chief Executive Officer.

..... Signature
(Authorised Officer)

Resolution for making this Local Law was agreed to by the Council of the Horsham Rural City Council on the 1st day of February 2016, and

THE COMMON SEAL OF THE }
HORSHAM RURAL CITY COUNCIL }
WAS HEREUNTO AFFIXED IN }
THE PRESENCE OF: }



HR Phill } Mayor

CA } Councillor

John M } Chief Executive Officer