

**POLICY NO: 4.2.2**

**COUNCIL MEETINGS – PRESERVING ORDER**

**OBJECTIVES**

To provide guidance for dealing with disruptive behaviour by the public at Council Meetings.

**POLICY STATEMENT**

1. The Council acknowledges that;
  - (a) there can be instances at a Council Meeting where disruptive behaviour by a member of the public makes the conduct of Council business more difficult and stressful, reducing the efficiency and effectiveness of Council Meetings. Disruptive behaviour also denies other members of the public the opportunity to participate in and observe Council proceedings; and
  - (b) it is appropriate to have procedures for dealing with disruptive and inappropriate behaviour.

**2. Legal Right to Deal with Disruptive and Inappropriate Behaviour**

Disruptive and inappropriate behaviour by the public at Council meetings will be dealt with under the City of Vincent Local Law Relating to Standing Orders and in accordance with this Policy.

The City of Vincent Local Law Relating to Standing Orders states:

Section 9.9 – Serious Disorder

- “(1) If at a meeting of the Council the Presiding Member is of the opinion that by reason of disorder or otherwise the business of the Council cannot effectively be continued, the meeting shall be adjourned for a period of not more than fifteen (15) minutes.*
- (2) After the adjournment in paragraph (1) the Council is to re-assemble and decide whether business is to be proceeded with, and that question is to be decided forthwith and without debate.*
- (3) Where after any proceedings under paragraphs (1) and (2), the Presiding Member is again of the opinion that the business of the Council cannot effectively be continued, the meeting may be closed or adjourned.”*

### Section 9.11 – Prevention of Disturbance

- “(1) *No person, other than a Member, shall interrupt or interfere with the proceedings of any meeting of the Council or committee, whether by expressing approval or dissent, by loudly conversing or by any other means.*
- (2) *A person who fails to comply with paragraph (1) when so directed by the Presiding Member, shall immediately leave the Council Chamber or meeting room.*
- (3) *A person directed to leave the Council Chamber or meeting room and failing to do so may, by order of the Presiding member, be removed from the Council Chamber or meeting room.*
- (4) *The direction of the Presiding Member is final and may not be challenged by moving dissent with the ruling.”*

### **3. Inappropriate Behaviour**

Inappropriate behaviour includes (but is not limited to):

- constant interjection, particularly when the Presiding Member or Elected Members present at the meeting are speaking;
- use of offensive, abusive and/or inflammatory language when addressing Council with a question or making a statement;
- aggressive/threatening behaviour towards either Elected Members, Council employees or members of the public;
- members of the public calling for points of order;
- booing individuals, Members or the Council;
- contemptuous laughter or derisive comments at decisions or during debate;
- refusal to give up the floor to allow other members of the public to ask questions or demanding to ask questions before others in contradiction of a request by the Presiding Member;
- refusal to accede to a Presiding Member's instructions, particularly when asked to desist from disruptive behaviour; and
- unnecessarily repetitive questioning.

### **4. Dealing with Disruptive/Inappropriate Behaviour by Members of the Public**

In instances where a member of the public behaves inappropriately and causes disruption during a Council Meeting and refuses to accede to the directions of the Presiding Member, the Presiding Member shall ask them to behave with dignity and modify their behaviour.

## **5. Dealing with a Continuation of Disruptive Behaviour**

If the disruptive/inappropriate behaviour does not cease the following action shall be taken:

- (a) the Presiding Member shall call an adjournment for a specific time period;
- (b) the Chief Executive Officer (CEO) shall discuss the situation with the offending persons during the adjournment and ask them to behave appropriately whilst in a place of government;
- (c) the Mayor and other Elected Members should retain the dignity of their office by not interacting in any way with the offending persons during the adjournment;
- (d) on resuming the meeting, the Presiding Member shall issue a warning that further continuation of the disruptive/inappropriate behaviour could lead to stronger action; and
- (e) Depending on the nature and intensity of the disruptive/inappropriate behaviour the Presiding Member may decide that more warnings will be issued before asking the CEO to request the person or persons to leave or the Police being called.
- (f) if after resuming the meeting, the disruptive behaviour continues, the Presiding Member will again adjourn the meeting and instruct the CEO to ask the offending person or persons to leave the premises.

(Note: The CEO must take this action as while the Presiding Member is in charge of the meeting.

It is the CEO who (through section 5.41(d) of the Local Government Act, has control or management of the local government's buildings, including the Council Chamber and meeting rooms and is the "person in authority" in relation to Section 70A of the Criminal Code.)

## **6. Instructions by CEO to Offending Persons**

- (a) Once the meeting has been again adjourned, the CEO shall advise the person or persons that they are requested to leave the premises and that if they remain they will be committing the offence of trespass under Section 70A of the Criminal Code and could be prosecuted.
- (b) Should the person or persons refuse to leave, the CEO shall advise them that the Police will be called to remove them and the local government may instigate legal proceedings.

## **7. Apprehension and Detention**

- (a) It is acknowledged that if a person or persons refuses to leave Council property, they may be apprehended and detained under Section 49 of the Police Act 1892, by the CEO, or a person authorised by him or her, may apprehend and detain any person found committing an offence punishable in a summary manner until the person can be delivered into the custody of the Police.

- (b) In view of the potential risks of personal injury, risk to the offending persons and potential for litigation, persons refusing to leave Council property will not normally be apprehended and detained.
- (c) Apprehension and detention of a person will only be carried out in extreme situations (eg to prevent violence or injury to another person) and will only be used as a final resort and/or where no alternative options are available. In these cases the CEO or a person authorised by him/her will issue the necessary instructions.
- (d) It is acknowledged that it is preferable to await the assistance of the Police to take the appropriate action.

## **8. Police Powers**

A Police Officer has the power under Section 50(1) of the Police Act to order a person to leave a public place if he or she suspects that the person “is hindering, obstructing or preventing any lawful activity that is being, or is about to be, carried out by another person”.

## **9. Legal Action**

Prosecution for a breach of section 70A of the Criminal Code may be commenced by the CEO who is acting in the course of his or her duties. (A prosecution is initiated by a prosecution notice under section 24 of the Criminal Procedure Act 2004.)

Note: Section 70A of the Criminal Code authorises the CEO to request a person to leave not only the building where the meeting is taking place, but also the local government property. This would address the situation where a person leaves the meeting but waits outside to challenge the Elected Members or employees after the meeting.

## **10. Section 70A of the Criminal Code**

70A. Trespass

“(1) *In this section –*

*“person in authority”, in relation to a place, means –*

(a) *in the case of a place owned by the Crown, or an agency or instrumentality of the Crown – the occupier or person having control or management of the place or a police officer; or*

(b) *in any other case –*

(i) *the owner, occupier or person having control or management of the place; or*

(ii) *a police officer acting on a request by a person referred to in subparagraph (i);*

*“police officer” means a person who holds an appointment under Part I, III or IIIA of the Police Act 1892, other than a police cadet;*

*“Trespass” on a place, means –*

- (a) to enter or be in the place without the consent or licence of the owner, occupier or person having control or management of the place;*
  - (b) to remain in the place after being requested by a person in authority to leave the place; or*
  - (c) to remain in a part of the place after being requested by a person in authority to leave that part of the place.*
- (2) A person who, without lawful excuse, trespasses on a place is guilty of an offence and is liable to imprisonment for 12 months and a fine of \$12 000.*
- (3) In a prosecution for an offence under subsection (2), the accused has the onus of proving that the accused had a lawful excuse.”*

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