

SCOTTISH BORDERS COUNCIL
CONSTITUTION OF XX COMMUNITY COUNCIL

1. NAME

The name of the Community Council shall be XX Community Council (hereinafter referred to as "the Community Council").

2. AREA

The area of the Community Council shall be that part of the Scottish Borders, the boundaries of which are shown delineated on Map Number X annexed to the principal copy of the Scottish Borders Community Council Scheme adopted by the Scottish Borders Council (hereinafter referred to as "the Scheme").

3. PURPOSES/FUNCTIONS

3.1 In addition to any other purpose which it may pursue, the Community Council shall:-

- (a) ascertain, co-ordinate and express to the Scottish Borders Council as the Local Authority for its area, and to other public authorities, the views of the community which it represents in relation to matters for which those authorities are responsible;
- (b) take pro-active steps to engage with all members of the community fairly and ensure all Community Council meetings are held in accessible venues;
- (c) take such action in the interests of that community as appears to it to be expedient and practicable.

3.2 The Community Council shall be non-party in politics and non-discriminatory and shall represent all persons in its area.

4. COMPOSITION OF THE COUNCIL

4.1 The Community Council shall be composed of:-

- (a) XX members who have been elected in the manner prescribed in the Scheme.

- (b) the Scottish Borders Councillor(s) for the area covered by the Community Council or any part of it, who shall have ex officio membership of the Community Council during their period of office for the Local Authority but shall have no entitlement to vote, move motions or amendments, or hold office in the Community Council. No Member of the Scottish Borders Council may simultaneously be a member of the Community Council other than in an ex officio capacity.

4.2 The Community Council may include co-opted members in the following circumstances:-

- (a) the Community Council may co-opt further members with skills or knowledge which the Community Council consider would be of assistance to the Community Council in carrying out its functions. Such co-opted members shall not have voting rights and shall not hold office, and may be under sixteen years of age. Members co-opted for this purpose will serve for such time as decided by the Community Council at the time of their co-option or until the Community Council decide that their services are no longer required; and
- (b) when the elected membership is less than the maximum number of elected members but is equal to, or more than one-half of that number, or where casual vacancies arise during a term of office, the Community Council may co-opt people who would be eligible for election to the Community Council as members in order to make up that number. However, the number of co-opted members cannot at any one time be more than one quarter of the maximum number of elected members. Members so co-opted may serve until the next ordinary election to the Community Council, qualifying for full voting rights after attending 3 meetings or 6 months after co-option (whichever is shorter).

4.3 In the event of the number of elected Members of the Community Council, in the interval between elections, reducing to less than one-half of the maximum number specified in paragraph 4.1 (a) above, a by-election shall be held not later than two months after this reduction occurs (unless the next ordinary election is due to occur within six months of the reduction occurring). The number of vacancies to be filled at the by-election shall be the number by which the elected membership falls short of the maximum.

5. METHOD OF CO-OPTION OF MEMBERS

- 5.1 A proposal to co-opt a person or persons to the Community Council under paragraph 4.2(b) above, shall require a Notice of Motion to that effect to be included on the Agenda for the appropriate meeting of the Community Council, and such Notice of Motion shall include the name of the person proposed to be co-opted, together with that person's number on the current Electoral Register (where appropriate) and the names of the proposer and seconder who shall be elected members of the Community Council.

6. CASUAL VACANCIES

A casual vacancy shall be deemed to have arisen in any of the following circumstances:

- (a) on the day when a member ceases to be entered in the Electoral Roll for the area covered by the Community Council;
- (b) on the expiry of a period of six calendar months during which a member has failed to attend a meeting of the Community Council, or of any Committee or other body constituted by the Council, unless leave of absence has been granted or other reason accepted by the Community Council; or
- (c) upon the receipt by the Secretary or Chair of the Community Council of a written notice of resignation from a Member

7. TERM OF OFFICE

- 7.1 Elected members of the Community Council shall serve for a term of office being a minimum of two years and a maximum of three years, and shall be eligible for re-election. *Doc 3 Community Council Constitution (example)-Term of Office 7.1 max of three years- presently we operate on a four-year term and have found this to be most suitable in achieving goals and aspirations for large projects, to reduce the term would mean less chance of achieving long term goals-our preference therefore is to remain on a four-year term.*
- 7.2 Any member of the Community Council elected at a by-election shall serve for a term of office up until the next full election for the Community Council and shall be eligible for re-election at that time.
- 7.3 A person seeking election to the Community Council must be aged 16 years or over and appear on the Electoral Roll for the Community Council area at the date of being proposed for membership of the Community Council or be able to provide proof of eligibility as advised

by the Returning Officer. Each candidate must be nominated by a Proposer (who may be the candidate) and a Secunder, both being persons whose names appear on the Electoral Roll for the Community Council's area.

- 7.4 A person seeking election to the Community Council must not have served a prison sentence (including a suspended sentence) of three months or more in the five years before the election.

8. GENERAL PROVISIONS

- 8.1 At the first public meeting of the Community Council following the initial election, which shall be chaired by the Returning Officer or their nominee (who shall normally be an ex officio member, if available), until a Chair has been elected, the Community Council shall elect from its eligible members a Chair, and such other office-bearers as the Community Council shall deem necessary. Thereafter such office-bearers, who shall be eligible for re-election, shall be elected or re-elected annually.
- 8.2 The Community Council may elect a Secretary and a Treasurer (which offices may be combined) who shall hold office and may be eligible for re-election in accordance with the provisions of paragraph 8.1 above. In the event of the Community Council being unable to elect a Secretary and/or Treasurer, the Secretary and Treasurer (but no other office-bearers) may be appointed from out-with the membership of the Community Council and may receive such remuneration as the Community Council may determine from the resources available to them, there being no extra funding available from the Scottish Borders Council for this purpose. Such appointees from out-with the membership shall be entitled to speak only on matters relating to their function as office-bearers and shall have no voting rights.
- 8.3 The Chair shall:-
- (a) be responsible for ensuring that meetings of the Community Council are properly conducted in accordance with this Constitution and Standing Orders; and
 - (b) be responsible for the submission of a written Annual Report on the Community Council's activities for the previous year to the Annual General Meeting.
- 8.4 The Secretary, or in the absence of the Secretary, the Chair, shall:-

- (a) convene meetings of the Community Council and its committees;
- (b) undertake correspondence arising from the work of the Community Council;
- (c) be responsible for preparing and keeping the minutes of meetings, including a record of those members in attendance and those members who are absent, and making a true record of proceedings for distribution to members and others; and
- (d) undertake such other duties as required by the Community Council from time to time.

8.5 The Treasurer shall:-

- (a) correctly maintain the Community Council's financial records, which shall disclose, with reasonable accuracy at any time, the financial position of the Community Council;
- (b) take all reasonable steps to ensure that monies due are received and creditors paid;
- (c) present financial information to the Community Council when required; and
- (d) prepare annually an Abstract of Accounts for submission to the Annual General Meeting.

8.6 Any vacancy in office arising during the office-bearer's term of office may be filled at any meeting of the Community Council, provided that notice of the vacancy has been included in the agenda for the meeting.

8.7 As soon as practicable following such appointments, the Community Council shall lodge with the Director Corporate Governance at Scottish Borders Council, a return specifying the full names, designations and contact details of the Community Council office-bearers and Examiner(s) of their Accounts and subsequently advise them, in writing, of all changes within one month of such changes occurring.

8.8 All elected and co-opted Community Councillors must act in accordance with the rules set out in the Scheme and comply at all times with the Community Councillors Code of Conduct.

9. COMMITTEES AND SUB-COMMITTEES

- 9.1 The Community Council shall have the power to establish Committees and Sub-Committees and to stipulate their composition, powers, duties and duration.
- 9.2 Decisions of such Committees or Sub-Committees shall be taken by a majority vote of those present, with the Chair having both a deliberative and a casting vote.
- 9.3 At a meeting of a Committee or Sub-Committee, a quorum shall be at least one-half of the elected membership thereof.
- 9.4 Committees and Sub-Committees shall keep a record of their proceedings and decisions taken, which will be submitted to the Secretary for entry in the Community Council minutes.

10. MEETINGS

- 10.1 Meetings of the Community Council shall be convened at intervals of not more than 6 months and at least three meetings shall be held annually, one of which shall be the Annual General Meeting. All meetings of the Community Council, shall be open to members of the public to attend, unless a meeting is to be held in private. **Meetings of the Community Council can be held virtually, provided appropriate arrangements are put in place to allow virtual participation not only by all Community Councillors but also by the public.** The Community Council shall comply with the principles of the Local Government (Access to Information) Act 1985, a summary of its main provisions having been provided to the Community Council, and any amending legislation, particularly in regard to the conduct of business in public unless permitted to be taken in private in terms of the Act, and also in regard to allowing advance sight of agenda papers and Minutes.
- 10.2 All relevant Community Council members shall be advised of the place, date and time of any meetings of the Community Council, Committees or Sub-Committees by means of written agendas, specifying the business to be conducted and sent either electronically or in paper format to their normal residence or place of work if requested by them at least seven days before or, in cases of urgency, at least three clear days before, the due date of such meeting. At the same time as the agenda is issued to members, a copy shall be sent to the Director Corporate Governance at Scottish Borders Council **(show email or postal address)**. At the same time, public notice shall be given by a copy of the agenda being affixed in a prominent and clearly visible position at the normal place where meetings of the

Community Council are held or on any local notice board, as well as online on a local website or social media page.

- 10.3 The ex officio Scottish Borders Council Councillor members shall comply with the National Code of Conduct for Local Authority Members. Community Council members shall be required to sign a declaration that they agree to abide at all times with the Code of Conduct for Community Councillors. This shall be by way of the nomination form for elected Community Councillors and a separate declaration for those co-opted during the term of office of the Community Council. The Community Council shall annually submit in writing its agreement to abide by the Code of Conduct.
- 10.4 Members shall be required, in advance, to declare both financial and non-financial interests relating to matters which might be under discussion and after doing so shall take no part in their consideration and shall leave the meeting room for the duration of that item. Failure to observe this may lead to suspension from a meeting and repeated failure to observe may lead to suspension from participating in the work of the Community Council for a period of time. Such declaration of interest must be made at every meeting where such a matter is under consideration.
- 10.5 Only Community Council members with full voting rights may vote at Community Council Meetings, including Annual General Meetings, the only exception being votes on the proposed contents of and amendments to the Constitution, in which case all persons eligible to vote in local government elections and on the Electoral Roll for the Community Council area and in attendance at the meeting are entitled to vote.
- 10.6 The quorum for each Community Council meeting shall be one-third of the Community Council membership eligible to vote, subject to a minimum of three.
- 10.7 With the permission of the Chair, any member of the public in attendance at a meeting may speak or ask a question regarding any item on the agenda. Members of the public must respect the authority of the Chair and all others present.

11. SPECIAL MEETINGS AND EXTRAORDINARY PUBLIC MEETINGS

- 11.1 The Community Council shall be empowered to convene special meetings and extraordinary public meetings in accordance with the Scheme within the area of the Community Council for the purpose of

considering matters of interest and importance, and for the purpose of agreeing or amending the Constitution.

11.2 The Community Council shall, upon receipt of a requisition signed by twelve electors, convene a special meeting, to be held within fourteen days of receipt by the Secretary of that requisition, to consider the business specified in the requisition and in the notice calling the meeting.

12. ANNUAL GENERAL MEETING

12.1 An Annual General Meeting shall be held not later than 60 days after the end of the Community Council's financial year.

12.2 The Agenda for the Annual General Meeting shall include the following items, namely:-

- (i) a report by the Chair on the Council's activities for the previous year;
- (ii) a report by the Secretary, as appropriate;
- (iii) the scrutinised/approved Annual Abstract of Accounts; and
- (iv) proposals for the amendment of the Council's Constitution, where appropriate;
- (v) election of Chair, Secretary & Treasurer.

13. MINUTES

The Community Council shall submit to the Director Corporate Governance, copies of the Minutes of its meetings. Minutes shall be circulated to Community Council members not later than with the issue of the agenda for the next meeting. Minutes of any meeting shall be made available not later than seven clear days prior to the next meeting of the Community Council for inspection by members of the public within the Community Council's area as requested.

14. HOLDING OF HERITABLE PROPERTY

14.1 The Community Council may lease or acquire any heritable property, the title to which shall be vested in the Chair, Secretary and Treasurer of the Community Council, and their respective successors, as trustees for and on behalf of the Community Council.

14.2 The Community Council shall keep an accurate record of any assets held and where they are kept indicating its wishes for the dispersement of these assets in the event of the Community Council being disestablished or dissolved. A copy of the register, and any

subsequent changes, must be submitted to the Director Resilient Communities of Scottish Borders Council within twenty one days of it being agreed by the Community Council.

15. STANDING ORDERS

All Community Council business shall be conducted in accordance with the Standing Orders as may be prepared by the Community Council and approved in writing by Scottish Borders Council prior to adoption, and which shall not be amended without the prior written approval of the Scottish Borders Council.

16. FINANCIAL PROVISIONS

- 16.1 The Community Council may raise funds for schemes, projects and other purposes falling within its stated objects.
- 16.2 All monies received by the Community Council, whether by way of grant, gift or loan shall be applied to further its objects.
- 16.3 The Community Council should not hold more than the equivalent of two years annual grant by way of reserves, excluding money ring fenced for specific initiatives.
- 16.4 The Community Council shall keep an accurate record of its receipts and payments and the Treasurer or other nominated office-bearer shall prepare annually an Abstract of Accounts (on the basis that the financial year runs from 1 April to 31 March of each year). The books and Abstract of each Community Council shall be scrutinised by an auditor/independent examiner (who shall not be a member of the Community Council), duly appointed from year to year for that purpose by the Community Council following approval by the Scottish Borders Council. A copy of the approved Abstract for each Community Council shall be submitted to the Director Resilient Communities at Scottish Borders Council (***show email or postal address, could this be the same contact as 10.2?***) following on from their approval at the Annual General Meeting. ***Remove the wording auditor as this implies an accountant- community council cannot afford to employ one.***
- 16.5 The Community Council may be provided free of charge, so far as is reasonably and financially practicable, with accommodation within premises under the ownership and control of the Scottish Borders Council for the purpose of holding Community Council meetings or

where such accommodation is not available contribute towards the hire charges incurred.

17. SUSPENSION OF A COMMUNITY COUNCILLOR

17.1 In the following circumstances the Community Council shall meet in private to consider a suitable course of action:

- (a) where a Community Councillor is consistently or flagrantly in breach of the Code of Conduct (including repeated non-declaration of interests);
- (b) where a Community Councillor is suspected of theft or improper use of Community Council assets or any other offence which is deemed to affect their ability to participate in the activities of the Community Council; or
- (c) where a Community Councillor may have brought the Community Council into disrepute by their actions or activities.

17.2 At such a meeting, the Community Councillor in question shall have the right to be accompanied by a supporter and to explain their actions, including any mitigating factors.

17.3 The Community Council may then consider the following options with regard to the Community Councillor:

- (a) that no action is necessary as the circumstances have been explained appropriately;
- (b) to ask for an apology and an assurance that there will be no repetition of the matter under consideration;
- (c) that appropriate training shall be given;
- (d) suspension from Community Council meetings and activities for a period of time to be agreed by the majority of the Community Council voting members present;
- (e) censure of behaviour and a written warning;
- (f) in serious cases only, a request by the majority of the voting members present that the Community Councillor resign; or
- (g) in serious cases only, to remove the Community Councillor with immediate effect only by a unanimous decision of those Community Council voting members present.

18. EQUALITIES

The Community Council is committed to treating all people equally and with respect, irrespective of their age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. A separate Equalities Statement shall be produced.

19. COMPLAINTS PROCEDURE

The Community Council shall produce a Complaints Procedure to deal with any complaints received about the Community Council or its members or its activities.

20. DISSOLUTION/DISESTABLISHMENT

20.1 A proposal to dissolve the Community Council shall require a Notice of Motion to that effect to be included on the agenda for a special meeting or an extraordinary public meeting, and shall require to be passed by a two-thirds majority of those present and voting.

20.2 In the event of the disestablishment or dissolution of the Community Council for any reason, such property and funds as are vested or under the control of the Community Council at the date of disestablishment or dissolution shall be transferred to and vested in the Scottish Borders Council unencumbered and shall be administered and applied by them in such manner as the Scottish Borders Council in line with the wishes of the Community Council may have determined to be for the benefit of all or part of the Community Council area.

20.3 In the event of the Community Council being in abeyance or becoming disestablished or dissolved, its share of any grant shall be retained by the Scottish Borders Council until such time as the Community Council is formed or re-formed, when a proportion of the grant appropriate to the portion of the Scottish Borders Council's financial year remaining shall be awarded.

21. AMENDMENT OF CONSTITUTION

21.1 Any proposal to amend this Constitution must be delivered in writing to the Secretary of the Community Council at least twenty-eight days before the date of the meeting at which the proposal is first to be considered.

21.2 Subject to the provisions of paragraph 11 hereof any alteration to this Constitution will require approval of both:

- (a) a majority of Members of the Community Council voting at a Community Council Meeting; and
- (b) a two-thirds majority of residents of the Community Area entitled to vote, being present and voting at an Annual General Meeting of the Community Council or a Special Meeting or an Extraordinary General Meeting convened for considering the approval of such alteration.

21.3 Notice of any Special Meeting or Extraordinary Public Meeting at which a proposal to change this Constitution of the Community Council is to be considered shall be given at least fourteen days prior to the date of the Meeting and such notice shall detail the wording of the proposed alteration(s).

22. ADOPTION OF CONSTITUTION

This Constitution, after being agreed by the **XX** Community Council, was adopted at a Council Meeting held on (**day, date and location**). It is confirmed that this Constitution is not in conflict with the terms of the Scottish Borders Community Council Scheme.

..... CHAIR

..... SECRETARY

..... TREASURER