

CITY COUNCIL DUTIES

Article III Form of Government

Section 300 Form of Government.

The municipal government established by this Charter shall be known as the “Council-Manager” form of Government.

Article IV City Council

Section 400 Elective Officers.

The elective officers of the City shall consist of a City Council of seven members. Candidates for City Council shall be nominated from and by the electors of each of the seven districts referred to in Article X of this Charter and one shall be elected from each of such districts by the voters of the City at large at the times and in the manner provided in this Charter. Ties in voting among candidates for office shall be settled by the casting of lots.

Alternatively, and successively, four four-year terms shall be filled at one general municipal election and three four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date of this amendment.

The term of office shall be four years. The term of each City Council member shall commence on the date of the City Council meeting, following his or her election, at which the council receives the certification of election results from the City Clerk. (As amended effective April 8, 1980, and November 6, 1984)

Section 401 Eligibility.

No person shall be eligible to hold office as a member of the City Council unless he or she is, and shall have been for at least thirty (30) days immediately preceding his or her nomination or appointment, a registered elector of the district from which he or she is nominated or appointed, and for at least thirty (30) days immediately preceding his or her election or appointment, a registered elector of the City.

Notwithstanding the provisions of Section 400, no person shall be or remain eligible to hold office as a member of the City Council for more than two (2) consecutive four (4) year terms. Members of the City Council who have served one or more terms prior to their current term shall be entitled to complete such term, but shall not be eligible for re-election except as provided below. Members of the City Council who are serving their first term as of the effective date of this amendment shall be eligible to hold office during a second four year term when the current term expires.

This section is intended to prevent persons from serving more than two (2) consecutive terms, and shall not be construed to render ineligible any person who would not, by virtue of his or her election, serve more than two consecutive terms. (As amended effective April 23, 1958, June 19, 1968, June 6, 1974, April 8, 1980, and December 15, 1992)

Section 402 Compensation.

The members of the City Council shall receive as compensation for their services in the amount of \$1,227.35 per month, which amount shall reimburse the City Councilmember for expenditures imposed upon him or her in serving as a City Councilmember. The Mayor shall receive as compensation an additional amount of \$513.96 per month to reimburse the Mayor for the additional expenses incurred in serving in that capacity. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. The compensation set forth in this Section shall be adjusted each July 1 in accordance with the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles- Riverside-Orange County region, or five percent (5%) whichever amount is lesser. Absence of a Councilmember from all regular and special meetings of the Council during any calendar month shall render such Councilmember ineligible to receive compensation for such calendar month. (As amended effective April 23, 1958, April 28, 1966, June 6, 1974, and January 9, 2013)

Section 403 Vacancies.

A vacancy in the City Council from whatever cause arising, shall be filled by appointment by the City Council of a qualified person from the district in which the vacancy has occurred, such appointee to hold office until the first Tuesday following the next general municipal election and until his or her successor qualifies. At the next general municipal election following any vacancy, a Councilmember shall be elected from the district in which the vacancy exists to serve for the remainder of the unexpired term.

If a member of the City Council absents himself or herself from all regular meetings of the City Council for a period of sixty days consecutively from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of his or her district, his or her office shall become vacant and shall be so declared by the City Council.

In the event the City Council shall fail to fill a vacancy by appointment within thirty days after such office shall have been so declared vacant, it shall forthwith cause an election to be held to fill such vacancy from the proper district. (As amended effective December 20, 2010)

Section 404 The Mayor. Mayor Pro Tempore.

On the date of any meeting of the City Council at which time the Council receives the certification of the results of any general or special municipal election at which any member of Council is elected, the City Council shall, after swearing and qualifying any newly elected member, elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. The Mayor shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and, as occasion requires, the Mayor may inform the people of any change in policy or program. The Mayor shall perform such other duties consistent with the office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

The City Council shall at the same time the Mayor is elected also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during the Mayor's absence or disability. (As amended effective April 28, 1966, June 6, 1974, April 8, 1980, November 6, 1984, and January 9, 2013)

Section 405 Powers Vested in the City Council.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Section 406 Interference in Administrative Service.

Neither the City Council nor any of its members shall interfere with the execution by the City Manager of his or her powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the department heads in the administrative service of the City, of any person to an office or employment or his or her removal therefrom. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the City Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. (As amended effective December 20, 2010)

Section 407 Regular Meetings.

The City Council shall hold two meetings per month except in the months of August and December when there shall be at least one regular meeting in August and one regular meeting in December. The City Council shall hold regular meetings at such times as it shall fix by ordinance or resolution. All regular meetings shall be publicly noticed according to the Ralph M. Brown Act, or any successor law. (As amended effective January 9, 2013)

Section 408 Special Meetings.

Special meetings may be called at any time by the Mayor, or by four members of the City Council, by written notice sent to each member and publicly noticed according to the Ralph M. Brown Act, or any successor law. (As amended effective June 6, 1974, and January 9, 2013)

Section 409 Place of Meetings.

All regular meetings shall be held in the Council Chambers of the City Hall, however other types of meetings shall be at locations allowed by the Ralph M. Brown Act, or any successor law. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the Mayor, or, if he or she should fail to act, by four members of the City Council. (As amended effective January 9, 2013)

Section 410 Quorum. Proceedings.

A majority of the members of the City Council shall constitute a quorum to do business but a less number may adjourn from time to time. In the absence of all the members of the Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. Notice of a meeting adjourned by less than a quorum or by the Clerk shall be given by the Clerk or may be waived by consent in the same manner as specified in this Charter for the giving or waiving of notice of special meetings of the City Council; but need not specify the matters to be acted upon. The City Council shall judge the qualifications of its members as set forth

by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

At the demand of any member, the City Clerk shall call the roll and shall cause the ayes and nays taken on an issue which is the subject of the demand to be entered in the minutes of the meeting. (As amended effective January 9, 2013)

Section 411 Citizen Participation.

No citizen shall be denied the right, personally or through counsel, to present grievances at any regular meeting of the City Council, or offer suggestions for the betterment of municipal affairs.

Section 412 Adoption of Ordinances and Resolutions.

With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of adoption of an ordinance it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes. (As amended effective January 9, 2013)

Section 413 Ordinances. Enactment.

In addition to such other acts of the City Council as are required by this Charter to be by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

The enacting clause of all ordinances shall be substantially as follows: “The City Council of the City of Newport Beach does ordain as follows:”

Section 414 Ordinances. Publication.

The City Clerk shall cause each ordinance to be published pursuant to the procedures established in California Government Code Section 36933 or any successor statute thereto. (As amended effective December 20, 2010)

Section 415 Codification of Ordinances.

Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Such code may be subsequently revised, recompiled, recodified and indexed, including such restatement and substantive change as is necessary in the interest of clarity, in the same manner as prescribed in this section for the original adoption by reference of an ordinance code. Amendments to the code shall be enacted in the same manner as ordinances.

Detailed regulations pertaining to the construction of buildings, plumbing and wiring, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this Section. Maps, charts and diagrams also may be adopted by reference in the same manner. (As amended effective June 29, 1962)

Section 416 Ordinances. When Effective.

No ordinance shall become effective until thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election.
- (b) An improvement proceeding ordinance adopted under some law or procedural ordinance.
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of taxation, or levying the annual tax upon property.
- (d) An emergency ordinance adopted in the manner provided for in this Article.

Section 418 Ordinances. Amendment.

The amendment of any section(s) or subsection(s) of an ordinance may be accomplished by the subsequent adoption of an ordinance which specifically modifies the section(s) or subsection(s). (As amended effective January 9, 2013)

Section 419 Reserved.

(As amended effective December 20, 2010)

Section 420 Reserved.

(As amended effective December 20, 2010)

Section 421 Contracts. Execution.

The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council or employee designated by the City Council and signed on behalf of the City by the Mayor or by such other employee as shall be designated by the City Council, the City Clerk and the City Attorney. Any of said employees shall sign a contract on behalf of the City when authorized or directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Manager or other employees to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City Service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Manager upon forms approved by the City Manager and at rates fixed by the City Council.

The provisions of this Section shall not apply to the services rendered by any person in the employ of the City at a regular salary. (As amended effective January 9, 2013)

Section 422 Freeway and Expressway Agreements; Connection with Freeways; Vote of Electors Required for Approval.

Unless and until approved by a majority of the city's electors voting at a general or special election, the city shall not enter into an agreement or contract with the State of California or any other government or department, subdivision, agency or commission thereof (1) allowing construction of a freeway or expressway which would be in whole or in part within the boundaries of the city or (2) to close any city street at or near the point of its interception with any freeway or expressway or to make provision for carrying such city street over or under or to a connection with the freeway or expressway or to do any work on such city street as is necessary therefor. (Added effective April 26, 1971)

Section 423 Protection from Traffic and Density.*

Voter approval is required for any major amendment to the Newport Beach General Plan. A "major amendment" is one that significantly increases the maximum amount of traffic that allowed uses could generate, or significantly increases allowed density or intensity. "Significantly increases" means over 100 peak hour trips (traffic), or over 100 dwelling units (density), or over 40,000 square feet of floor area (intensity); these thresholds shall apply to the total of: 1) Increases resulting from the amendment itself, plus 2) Eighty percent of the increases resulting from other amendments affecting the same neighborhood and adopted within the preceding ten years. "Other amendments" does not include those approved by the voters. "Neighborhood" shall mean a Statistical Area as shown in the Land Use Element of the General Plan, page 89, in effect from 1988 to 1998, and new Statistical Areas created from time to time for land subsequently annexed to the City.

“Voter approval is required” means that the amendment shall not take effect unless it has been submitted to the voters and approved by a majority of those voting on it. Any such amendment shall be submitted to a public vote as a separate and distinct ballot measure notwithstanding its approval by the city council at the same time as one or more other amendments to the City’s General Plan. The city council shall set any election required by this Section for the municipal election next following city council approval of the amendment, or, by mutual agreement with the applicant for the amendment, may call a special election for this purpose with the cost of the special election shared by the applicant and the City as they may agree. In any election required by this Section, the ballot measure shall be worded such that a YES vote approves the amendment and a NO vote rejects the amendment; any such election in which the ballot measure is not so worded shall be void and shall have no effect.

This section shall not apply if state or federal law precludes a vote of the voters on the amendment. (Added effective December 15, 2000)

* Note: The statistical divisions/statistical areas map is found in Appendix A to this Charter.

Section 424 Limitations on Use of Eminent Domain.

The City of Newport Beach and/or any City-Affiliated Agency shall not exercise the power of eminent domain to acquire any property from the owner of the property, without the owner’s consent, for the sole purpose of transferring the property to another person to further private economic development.

As used in this section of the Charter, the following terms shall have the following ascribed meanings:

“Owner” means the owner of the fee title interest in the property to be acquired, as shown on the last equalized assessment roll, or other more current proof of vesting the City may have.

“Property” shall mean any interest in real or personal property otherwise subject to acquisition through the use of eminent domain.

“City-Affiliated Agency” shall mean the City of Newport Beach and/or any other entity possessing the power of eminent domain, the governing board of which is solely composed of, or is solely appointed by, the members of the City Council of the City of Newport Beach. (Added effective January 12, 2007)

Section 425 City Hall.

City Hall, including most administrative offices of the City and related parking, shall be located on the City-owned parcel bounded by Avocado Ave. on the west, San Miguel Dr. on the north, MacArthur Blvd. on the east, and the Newport Beach Central Library on the south. (Added effective March 3, 2008, and amended effective January 9, 2013)

Section 426 Prohibition of Automated Traffic Enforcement Systems (Red Light Cameras).

No ordinance shall be adopted by the City Council which would permit or authorize any red light camera or other automated traffic enforcement system in the City of Newport Beach. Any ordinance adopted by the City Council in violation of this section shall be null and void. Neither the City Council, nor any officer or employee of the City when acting in his or her official

capacity, shall (i) take any action which would directly or indirectly result in the authorization, approval or installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach; or (ii) acquiesce or concur in any action or decision of any other governmental agency or governmental official having jurisdiction concerning such red light cameras where a protest or objection procedure is available to the City and where failure to so protest or object could result in the authorization, approval, or installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach; or (iii) approve, authorize, execute or enter into any agreement or understanding, or take any other action of any nature whatsoever, which would authorize, approve, or in any way facilitate or result in the installation of any red light camera or other automated traffic enforcement system in the City of Newport Beach, including, but not limited to, any agreement or understanding relating to the installation of any red light camera or automated traffic enforcement system which would result in the receipt by the City. The term “red light camera or other automated traffic enforcement system” as used in this section shall mean and include any automated traffic enforcement system, as that term is used in California Vehicle Code Section 21455.5, or any successor legislation thereto, which is used to enforce any provision of the California Vehicle Code. The prohibition provided in this section shall not apply to any “toll highway” or “toll road,” as those terms are defined within California Vehicle Code Section 611. (Added effective January 9, 2013)