

RULES OF PROCEDURES OF THE  
HARBOR COMMISSION

CITY OF NEWPORT BEACH, CALIFORNIA

I. TITLE

The official title of this Commission shall be “Harbor Commission of the City of Newport Beach, California.”

II. MEMBERSHIP AND TERM

Pursuant to Section 713 of the City Charter, the Harbor Commission shall consist of seven members appointed and approved by the City Council. Each member shall serve a term of four years, such terms to be on a staggered basis. Pursuant to the City Council Policy A-2, Commission appointments can be extended beyond one term when in the judgment of the Council, a reappointment would recognize and extend an unusual contribution by the incumbent. In no event will individual appointments to the Commission exceed two consecutive full terms, exclusive of appointments to fill unexpired terms. The Harbormaster, City staff and the City Attorney, or their representatives, are advisors to the Commission and do not have a vote.

III. OFFICERS

A. The offices of the Commission shall be:

1. Chair, whose duties shall be to preside at all meetings, and to call all special meetings, appoint committees, and perform all other proper duties of a presiding officer.
2. Vice Chair, who in the absence of the Chair, or his/her inability to act, shall preside at all meetings and perform all other duties of the Chair.
3. Secretary, who in the absence of the Chair and Vice Chair, or their inability to act, shall preside at all meetings and perform all other duties of the Chair. The Secretary shall also keep a written record of all business transacted by the Commission, prepare the agenda of regular and special meetings arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a Secretary. In his/her absence, the Secretary may delegate his/her duties to the Harbormaster, and the Harbormaster shall be known as the Ex-Officio Secretary of the Harbor Commission. The Harbormaster shall designate a City employee to serve as the Recording Secretary.

B. The Chair, Vice Chair, and Secretary shall be elected at the annual meeting of the Commission or an adjournment of that meeting and shall hold office for a period of

one (1) year or until their successors are elected. In the event an office becomes vacant, a successor shall be elected to fill the remainder of the unexpired term.

#### IV. ADVISORS

The Chair may, with consent of the Harbor Commission, request the attendance at Harbor Commission meetings of any officer or employee of the City to assist the Commission in its deliberations in an advisory capacity.

#### V. LOCATION OF MEETINGS

The Harbor Commission shall hold all of its meetings, whether the same shall be a regular or special meeting or study session, in the council chambers of the City Council, or in any such other place after notice duly given, within the corporate limits of the City.

#### VI. TIME OF MEETINGS

- A. The annual meeting of the Commission shall be the first regular meeting in July of each year.
- B. Regular meetings of the Commission shall be held on the second Wednesday of each month. These meetings shall commence at the hour of 5:00 p.m. except that the Chair may call for said meetings to commence at an earlier hour when it is determined that the Commission's workload warrants such earlier starting time. When this schedule conflicts with holidays or the mandates of priority projects, the Commission may alter this schedule as set forth in sections E and F below. Proper notice of such meeting shall be given according to the requirements of applicable law.
- C. In addition to regular meetings, the Harbor Commission may convene a study session to hear reports from the staff and review, discuss, and debate general harbor matters of interest to the City preceding any regularly scheduled meeting when the Harbor Commission Chair makes the determination that a study session is warranted. No official action will be taken at a study session.

During a study session, the Harbor Commission may also become informed about any matter within the jurisdiction of the Harbor Commission. No approval of any type may be given at a study session and none may be inferred. No question, comment, or suggestion by any member of the Harbor Commission, positive or negative, will be deemed to create any indication the Harbor Commission will approve or disapprove an item.

- D. No agenda item shall be introduced after the hour of 9:30 p.m. Furthermore, any item introduced and being discussed by 9:30 p.m. and not concluded by 10:00 p.m. shall be continued by the Harbor Commission to another date. The intent and purpose of this policy is to facilitate maximum public participation and to encourage a reasonable hour in which the Harbor Commission business is discussed

and to protect against fatigue in discussing and deciding important City issues. The above time periods may be extended by motion approved by majority vote of the Commissioners present.

- E. Any meeting may be adjourned from time to time by the majority vote of the members present.
- F. Special meetings may be held as deemed necessary at the request of the majority of the members of the Commission or by call of the Chair, Vice Chair, or Secretary; notice of such special meetings shall be posted and served upon all members at least 24 hours before the special meeting, and to each local newspaper of general circulation, radio, and television station requesting notice in writing. The notice shall specify the time, place, and matters to be considered at the special meeting, and only the matters specified may be considered.

## VII. AGENDAS

- A. As provided herein, an agenda containing a brief description of each item of business to be transacted or discussed shall be posted at a location freely accessible to the public at least 72 hours before each regular meeting. Study session agendas shall be distributed to the public on the same basis as regular agendas.
- B. Any regular, adjourned, and/or special meeting, or study session of the Harbor Commission shall be open to the public and to the maximum extent possible afford the public an opportunity to comment on all matters before the Harbor Commission. Every agenda shall provide an opportunity for members of the public to speak on any off-agenda item of interest to the public.
- C. Any matter in which the Harbor Commission may approve, conditionally approve or disapprove an application or permit shall be accompanied with a resolution outlining the reasons for the approval or denial of such application or permit.
- D. No action may be taken on an off-agenda item unless (i) a majority of those Commissioner present determine that an emergency situation exists; or (ii) two-thirds of the Commissioners, or all of the Commissioners if less than two-thirds are present, determine there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda; or (iii) the item was included in a properly posted agenda for a prior meeting occurring not more than five days prior to the meeting at which the action is taken and the matter was continued to the meeting at which action is taken. It is inevitable that subjects will arise, either during the course of consideration of agenda items or during public comment, on which no action can be taken because the circumstances outlined in (i) through (iii) above do not exist. In such event, the Chair shall have the power to refer the matter to staff, or to place the item on the agenda of a future meeting, or both.

## VIII. VOTING PROCEDURE

- A. At any meeting of the Harbor Commission four (4) members of said Commission shall constitute a quorum for the transaction of business. Every Commissioner should vote unless disqualified by reason of a conflict of interest. A Commissioner who abstains from voting is counted as being present and in effect consents that a majority of those present and voting shall decide the question voted upon.
- B. Any vote of the Commission, including a roll call vote, may be registered by the members by answering “YES” for an affirmative vote, or “NO” for a negative vote upon the member’s name being called by the Recording Secretary, or by pressing a switch to cause a green light to show for an affirmative vote, or a red- light to show for a negative vote upon a vote being called for by the Chair. The result of any vote registered by means of a lighting system shall be audibly announced by the Recording Secretary and recorded in the minutes as the vote. If a member is present and does not cast a vote as described above, that member shall be considered as abstaining. In case of emergency or problems with the vote registering lighting system, the Chair may determine any other reasonable manner to vote and register votes on any matters on any agenda.
- C. Any Commissioner who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Chair state this determination and the nature of such disqualification in open meeting. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Commissioner affected, be decided by the other members of the Commission. A Commissioner who is disqualified by reason of a conflict of interest in any matter shall not remain in the council chambers during the debate and vote on such matter and shall request permission of the Chair to depart until the item is closed. A Commissioner stating such disqualification shall not be counted as a part of the quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.
- D. Any tie vote shall constitute a lost motion and may be reconsidered at the same meeting at which the action was taken, by a motion offered by any Harbor Commissioner who voted on the matter. If there is no action by an affirmative vote, the result is denial.
- E. Except for a tie vote, a motion to reconsider any action taken by the Harbor Commission must be made at the same meeting or the subsequent meeting at which the action was taken and may only be made by one of the Harbor Commission members who voted with the prevailing side.

IX. ORDER OF BUSINESS

- A. The order of business for regular, adjourned, or special meetings shall be:
1. Call to order by the Chair
  2. Roll Call
  3. Pledge of Allegiance
  4. Public Comments
  5. Presentations
  6. Approval of Minutes
  7. Public Hearings
  8. Current Business
  9. Commission Announcements (Non-Discussion Items)
  10. Matters Which Commissioners would like to place on a future Agenda for Discussion, Action or Report (Non-Discussion Items)
  11. Date and Time for Next Meeting
  12. Adjournment
- B. The order of business may be altered at the discretion of the Chair or by a majority vote of the Commissioners.

X. CONDUCT OF MEETINGS

- A. All meetings shall be conducted under the order of parliamentary procedure as specified in the last revised edition of Robert's Rules of Order to the extent that such rules are not in conflict with these Rules of Procedure.
- B. All Commissioners shall address all questions and comments through the Chair.
- C. Persons attending meetings of the Commission will be asked, but not required to identify themselves, sign the sheet at the podium, and address Commissioners or other persons present through the Chair.
- D. Exhibits: All maps, letters, and documents considered by the Commission at any hearing shall become a part of the records of the Commission.

- E. Motions: Any motion may be made by any member of the Commission, including the presiding officer. All motions require a second in order to be considered by the Commission.
- F. Substitute Motions: A substitute motion may be made by any member of the Commission, including the presiding officer, after a motion is on the floor. The substitute motion will suggest a different course of action or the opposite action of the main motion. No more than two substitute motions can be placed on the table for consideration at the same time. If the substitute motion fails, the main motion remains on the floor. If the substitute motion passes, it will cancel out the main motion.
- G. If an applicant submits additional written or printed material for the Harbor Commission's consideration less than seven (7) working days prior to the date of the hearing on the matter, the Harbor Commission may continue the matter and the applicant shall be deemed to have consented to such a continuance.
- H. E-mails: E-mails from Harbor Commissioners requesting minor clarification of factual information provided to Harbor Commissioners by staff for any Harbor Commission agenda item may be answered by the Harbormaster or his/her designee prior to the Harbor Commission meeting at which such agenda item is to be considered. E-mails raising new issues or expanding upon issues addressed in the staff report for an agenda item that, as determined by the Harbormaster, are more appropriately considered by the Harbor Commission at a public meeting will be printed for distribution to Harbor Commissioners at the respective meeting.

E-mails sent directly to Harbor Commissioners after agenda packets have been distributed and before the respective Harbor Commission meeting shall be forwarded to the Harbor Department for printing and/or copying for distribution to Harbor Commissioners at the respective Harbor Commission meeting. Information contained in any such e-mails from a project applicant which the Harbor Commission determines, in a public meeting, may have significant bearing on the agenda item under consideration may be cause for the Harbor Commission to continue such agenda item to allow sufficient time for review and analysis of such information and the applicant shall be deemed to have consented to such a continuance.
- I. Public Comments: Public comments on any agenda item shall be limited to three (3) minutes per speaker, unless a request for a time extension is granted by the Chair.
- J. Use of Electronic Devices: The use of any type of electronic device by a Commissioner during any meeting of the Harbor Commission is intended to solely support the business of the Commission and shall not distract a Commissioner from the meeting. Use of any type of electronic device during any meeting must adhere to the requirements of the Brown Act.

- K. Except as otherwise permitted by law, all mail or written communications from the public/residents/applicants shall be submitted to the Harbor Commission by 5:00 p.m. on the day immediately prior to the meeting at which the Harbor Commission will consider the item that is the subject of the mail or written communications to allow time for the Harbor Commission to adequately consider the mail or written communications.
- L. Public Hearings: For items duly noticed as a public hearing the following procedure shall be followed. The Chair shall set time limits as appropriate to allow for a full, orderly, and efficient hearing.
1. Presentation on the item from the staff.
  2. Commissioners' opportunity to ask questions of staff.
  3. Presentation (or response) from the applicant/permit holder (and/or their representative) and any third-party appellant on the item.
  4. Commissioners' opportunity to ask questions of the applicant/permit holder and third-party appellant.
  5. Comments from the public on the item.
  6. Commissioners' opportunity to ask additional questions of the applicant/permit holder, staff and third-party appellant.
  7. Chair asks the Commission for a motion.
  8. Commission deliberates the motion.
  9. Commission votes on the motion.

XI. COMMITTEES

The Chair may appoint such committees as may be deemed necessary to carry out the function of the Harbor Commission. Members shall serve at the pleasure of the Chair.

XII. CORRESPONDENCE AND COMMUNICATIONS

It shall be the duty of the Ex-Officio Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Harbor Commission as hereinbefore stated in the rules of the Newport Beach Harbor Commission.

### XIII. ATTENDANCE

- A. Regular attendance at meetings of the Harbor Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law.
- B. A Commissioner absent from three (3) consecutive regular meetings without securing the consent of the Commission, entered upon the minutes, shall be deemed to have resigned. The Ex-Officio Secretary shall notify the City Council of such resignation and request, in the name of the Commission, appointment of a new member to fill the unexpired term of the member resigning.

### XIV. POLICY

All matters of policy not covered by law may be adopted as a “Resolution of Policy” and when so adopted shall be considered as the official policy of the Commission.

### XV. AMENDMENT OF RULES

- A. These rules may be proposed to be amended or added to by four (4) affirmative votes of the Harbor Commission at a regular meeting pursuant to the procedures in Section XV.B.
- B. No amendment of or addition or deletion of these rules shall be made unless notice in writing of the proposed amendment or addition shall be filed with the Ex-Officio Secretary at the regular meeting next preceding the meeting at which the motion to change is made.
- C. The Ex-Officio Secretary shall forward a copy of any amended, added or deleted rules to the City Clerk.

### XVI. MINUTES

- A. The Recording Secretary shall prepare draft minutes for regular, adjourned, and/or special meetings and submit the minutes to the Harbor Commission for review and approval. The minutes shall record all actions of the Harbor Commission and provide a summary record of any Harbor Commission, staff, and/or public questions and comments made during the meeting.
- B. Once approved by the Harbor Commission, the Chair and Secretary shall sign the final minutes.

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