

# Orange County Planning Commission Bylaws

# Bylaws of the Planning Commission

## BYLAWS AND RULES OF PROCEDURE ORANGE COUNTY PLANNING COMMISSION

### ARTICLE I. Name of Organization

- A. The name of this organization shall be the Orange County Planning Commission (“Commission”).
- B. The official location and mailing address of the Commission shall be:

Location:

Hall of Administration (HOA)  
Planning Commission Hearing Room  
333 W. Santa Ana Blvd  
Santa Ana, CA 92701

Mailing Address:

Planning Commission  
c/o OC Development Services, Planning Commission Secretary  
601 N. Ross Street  
P.O. Box 4048, Santa Ana, CA 92702-4048

### ARTICLE II. Establishment of Orange County Planning Commission

The members of the Commission are appointed by the Orange County (“County”) Board of Supervisors (“Board”) pursuant to Orange County Codified Ordinance § 7-9-2, et. seq.

### ARTICLE III. Purpose and Functions

- A. The purpose of the Commission is to assist the County with the orderly development of property within the unincorporated area.
- B. In accordance with Government Code § 65103 and Orange County Codified Ordinances § 7-9-2.4, the functions of the Commission are as follows:
  - 1. Recommend to the officers of the County adoption of plans and regulations, including General Plan amendments, Zoning Code amendments and zone changes, for the future growth, development, and beautification of the County in respect to public and private development.
  - 2. Recommend to the officers of the County plans, including specific plans, planned communities and area plans, consistent with the future growth and development of the County to secure to the County and its inhabitants' sanitation, proper service of all public utilities, harbor, shipping, and transportation facilities.
  - 3. Make recommendations to any public authorities or any corporation or individuals of the County with reference to the location of any proposed buildings, structures or works.
  - 4. Initiate amendment(s) to the General Plan, Zoning Code, zoning map, specific plans, and area plans.

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5. Hear and approve, conditionally approve, modify, or deny discretionary permits including, but not limited to, Use Permits, Coastal Development Permits, and Variance Permits.
6. Hear and approve or deny the proposed revocation of a permit(s).
7. Hear appeals from actions of the Subdivision Committee with respect to tentative tract and parcel maps, and lot line adjustments. The Planning Commission decision on such appeals shall be final for appeals not involving a California Environmental Quality Act determination, unless the California Environmental Quality Act determination is being appealed, in which case both the CEQA determination and the discretionary permit determination are appealable to the Board of Supervisors from the Planning Commission as set forth in section 7-9-125.10(a)(3).
8. Hear appeals from actions by the Director regarding negative declarations and the requirement to prepare environmental impact reports. The Planning Commission decision on such appeals may be further appealed to the Board of Supervisors as set forth in section 7-9-125.10(a)(3).
9. Hear appeals from actions by the Director or Zoning Administrator regarding a discretionary permit. The Planning Commission decision on such appeals shall be final, unless the California Environmental Quality Act determination is being appealed, in which case both the CEQA determination and the discretionary permit determination are appealable to the Board of Supervisors from the Planning Commission as set forth in section 7-9-125.10(a)(3).

### **Article IV: Appointment and Membership**

#### **A. Membership of the Commission is to be composed as follows:**

1. There shall be five (5) members.

#### **B. Qualifications for Commission Membership**

1. Residency and Voting Requirements: Except where the Board finds it is in the best interest of the County to waive voter and residency requirements, all members of the COMMISSION shall be:

- i. registered voters in the County; and,
- ii. in accordance with Orange County Codified Ordinances § 7-9-2, reside in the district of the nominating member of the Board of Supervisors, unless the Supervisor representing the district where the nominee resides provides written consent for the nomination.

#### **C. Length of Commission Membership**

1. In accordance with Orange County Codified Ordinances § 7-9-2.1, all regular Commission member appointments shall be for a term concurrent with the term of office of the nominating member of the Board of Supervisors. A member of the Commission whose term of office is expiring with that of the nominating Supervisor shall have the option of reapplying for membership for appointment.
2. Appointments made to fill a vacancy left by a member before the expiration of the term of that member shall be for the remaining term of that member.
3. Pursuant to Government Code section 1302, a member whose term has expired shall continue serving as a member until reappointed or replaced.

### **Article V. Officers**

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- A. Commission officers shall consist of Chairperson and Vice Chairperson. At the first meeting of the year, the Commission shall elect a Chairperson and a Vice-Chairperson who shall serve at the pleasure of majority of the full voting membership of the Commission. Upon election, the Chairperson shall assume his/her responsibilities. The Chairperson shall preside at meetings and perform such other duties as may be prescribed by these Rules of Procedure. In the absence of the Chairperson, the Vice Chairperson shall assume the Chairperson's duties. If neither the Chairperson nor the Vice Chairperson is present to oversee the meeting of a quorum, the Executive Officer, who is a staff member from OC Development Services, shall serve as the Temporary Chairperson, and shall gavel the meeting to order, take roll, and then call for the nomination of a Chairperson Pro Tempore

Vacancies in the unexpired terms of the Chairperson and Vice- Chairperson shall be filled from the membership of the Commission by an election held at the first meeting following the creation of the vacancy.

1. The Chairperson (and the Commission) shall be guided, but not bound, by Roberts Rules of Order, latest revision, on all questions of procedure and parliamentary law not covered by these rules and regulations.
2. The Chairperson shall exercise firm control and direction during any Commission meeting or hearing. No member of the Commission or the general public shall address the Commission until recognized by the Chairperson.
3. The Chairperson shall exercise general supervision over the business papers and property of the Commission and shall execute all resolutions on behalf of the Commission; the same to be attested by the Commission's Executive Officer or the Commission Clerk.
4. The Chairperson may present to the Commission such matters as the Chairperson deems necessary, and shall not be required to vacate his or her Chairperson for the purpose of actively discussing (as a member of the Commission) an item on the agenda or a subject for review, discussion and/or recommendation by the Commission except as the matter may be deemed a conflict of interest.
5. Terms for officers of the Commission shall be for one year.
6. No person, except a member of the Board, may serve as Chairperson of the Commission for more than three consecutive terms.
7. No person, except a member of the Board of Supervisors, may serve simultaneously as Chairperson for two or more BCCs.

### **ARTICLE VI. Duties of Members**

- A. Members shall attend meetings of the Commission and of any committees to which they are appointed.
- B. Members shall notify the Chairperson and the assigned Clerk from OC Development Services of any expected absence for a meeting by 5:00 p.m. of the day before a regularly scheduled Commission meeting, indicating good and sufficient reasons for the absence.
- C. In the performance of its responsibilities, the Commission shall not engage in nor employ any unlawfully discriminatory practices in the provision of services or benefits, assignment of accommodations, treatment, employment of personnel or in any other respect on the basis of sex,

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race, color, ethnicity, national origin, ancestry, religion, age, marital status, medical condition, sexual orientation, physical or mental disability or any other protected group in accordance with the requirements of all applicable County, state, or federal laws.

- D. Members of the Commission shall comply with the County Equal Employment Opportunity and Anti-Harassment Policy and Procedures.
- E. Members of the Commission shall comply with County Code of Ethics.
- F. Members of the Commission shall operate strictly within designated purposes of the Commission.

### **ARTICLE VII. Meetings and Actions**

- A. The Commission shall, at its last meeting of the year or first meeting of each year, adopt a schedule of regular meetings and transmit that schedule in writing to members, the Board, and the public at large.
- B. All Commission meetings shall be open, public, and noticed in conformance with the provisions of the Ralph M. Brown Act, California Government Code section 54950 et seq., as amended and held at a location within Orange County, California that satisfies the access requirements of the Americans with Disabilities Act.
- C. Special meetings of the Commission may be called either by the Chairperson or at the request of a majority of members. Notice of special meetings shall:
  - 1. delivered to members personally, by mail or electronically, and must be received no later than 24 hours in advance of the meeting.
  - 2. state the business to be considered and whether alternative technological means may be used such as telephone or video conferencing, as technological resource availability permits and as permissible by the Ralph M. Brown Act.
- D. Agendas: The Executive Officer to the Commission shall cause an agenda to be prepared for each meeting, that may include:
  - 1. Items referred by the Board of Supervisors.
  - 2. Items previously set for consideration by the Commission.
  - 3. Items requested by any member of the Commission.
  - 4. Appeals to the Commission as authorized by another ordinance or regulation;
  - 5. Reports from the Resources and Development Management Department.
  - 6. Listing of Commission items.
  - 7. Actions by the Board of Supervisors on Commission recommendations and appeals made from the Commission's previous decisions.

The Chairperson may vary the order in which items on the agenda are taken up, provided that items for a time certain shall not be taken up prior to the time for which they are set.

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- E. Quorum Requirements and Voting
  1. Quorum shall be no less than 50%+1 of the membership, or 3 members.
  2. Voting Majority: Decisions and acts made by majority vote of the members at any duly constituted meeting shall be regarded as acts of the Commission, except as otherwise provided by these (Bylaws, Rules of Procedure, Policies and Procedures, as applicable).
  3. Members choosing to abstain from voting on specific actions will not affect majority requirements. Abstentions are considered a “non-vote” – neither a vote in the affirmative nor in the negative. However, for an action to be passed, a majority of the quorum casting votes must vote in the affirmative.
  4. All motions shall require a second. When a motion is before the Commission, no other motion shall be entertained except an amendment to the original motion or a substitute motion, both of which shall have precedence over the original motion.
  5. A motion may be withdrawn only by the maker with the consent of the person who offered the second.
  6. Voting shall be by roll call on zoning ordinances, specific plans, the general plan, and whenever any member so requests. Reading of motion will be done by Secretary before roll call.
- F. Minutes: The Clerk of the Commission shall prepare and publish the minutes for each meeting of the Commission.
- G. The Record: All exhibits placed before the Commission as part of the testimony shall be prominently displayed and identified. Staff reports are part of the record. It shall be the duty of the Executive Officer or designee to certify the action taken by the COMMISSION on the face of such maps or exhibits. Meetings of the Planning Commission shall be recorded on audio tape or by other such means and these recordings shall be available for a period of two (2) years for replay and copying in accordance with general county policies and procedures.
- H. Staff Reports: Staff reports shall be made available on most agenda items. When such reports exist, they shall be made available to the public [where/online] Such reports shall constitute a part of the record of the Commission proceedings. Also, electronic versions of the report may be made available on the County web site for downloading by interested persons.
- I. Rules of Evidence and Hearing Conduct
  1. Rules of evidence: All relevant evidence shall be considered by the Commission during its proceedings. This evidence may take the form of written reports, oral testimony, pictures, physical exhibits, and any Commissioner's own firsthand knowledge of the site involved. Commission Counsel may advise the Commission on the incorporation of physical or pictorial evidence into the record.
  2. Conduct of hearings: Rebuttal testimony may be heard at the discretion of the Chairperson following advice of the Commission. The Chairperson may also place reasonable time limits on testimony, rule irrelevant or redundant testimony out of order, and make such other rulings as may be necessary for the orderly conduct of the Commission’s business. Rulings of the

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Chairperson on procedural and parliamentary matters are subject to over- rule by a motion to that effect, second and majority vote of Commissioners present.

- J. Receipt of Written Materials: Any correspondence to the Commission shall be distributed to all members. Such correspondence shall constitute a part of the record of the Commissioners ' proceedings.

To ensure consideration by the Commission, any written material, including letters, briefs, and other documents, in support of or opposing the pending matter, shall be presented to the Commission by filing ten copies thereof with the Clerk not less than one (1) business day prior to the time scheduled for the hearing. Such written material should not be read aloud as public testimony. Exceptions to these conditions may be made by the Chairperson.

The Clerk's copy of the written material discussed above will be available for public inspection prior to the hearing. (Special time periods for submission of materials may be established by the Commission in individual cases where an unusually heavy volume of such material is anticipated, or other exceptional conditions exist.)

- K. Correspondence: Correspondence from the Commission must be authorized by a vote of the Commission and may be signed by either the Chairperson, the Vice Chairperson or the Executive Officer on official Commission letterhead stationery, or County Development Services stationery when no Commission stationery exists.
- L. Public Hearing Notice & Procedure: Certain matters are required by law to be considered at public hearings at which any interested person may testify. These matters include but are not limited to General Plan Amendments, Zone Changes, Conditional Use Permits, Variances, and Revocation Proceedings brought against a permit holder. In addition, the Commission may set public hearings on any matter of concern to the Commission. The notice requirements for public hearings vary depending upon the matter being held.

The Commission shall adhere to the following procedures during public hearings and in considering matters such as environmental impact reports for which public hearings are not legally required but which are before the Commission for action and in which there is public interest:

1. The Chairperson shall call for the item (or items where related matters are being considered concurrently), and may request an oral report and recommendation, if any, from the Executive Officer or his/ her representative.
2. Public testimony will be heard with the applicant, or immediately affected property owner, if any, being given an opportunity to speak first, followed by others in any convenient order which may be designated by the Chairperson. Persons addressing the Commission shall step to the podium and give their name and address for the record before speaking. Persons speaking in a representative capacity, including attorneys, shall state their affiliation or persons being represented.
3. During public testimony, questions by members of the Commission or shall be asked with the consent of the Chairperson.
4. The Chairperson shall announce the conclusion of public testimony.

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5. Additional comments or response from the Executive Officer or County Counsel may be requested.
  6. Each Commissioner shall then be granted the opportunity to ask final clarifying questions of staff. Deliberations on the issue may only occur following the making and second on an action motion pertaining to the item before the Commission.
  7. The Commission shall be given the opportunity to deliberate on the action to be taken prior to calling the question. Roberts Rules of Order shall be observed in making motions, closure of debate, substitute motions, and incidental motions.
- M. Any matter may be continued in the absence of a deadline for action established by law. When a legally noticed public hearing is continued, it shall be to a date and time certain. Certain matters as specified in the Zoning Code may be taken under submission.
- N. The Commission may elect to continue final action on a matter until written findings or exhibits reflecting the Commission's proposed action can be prepared. In such cases, any public hearing on the matter shall be closed, the staff shall be instructed to prepare the proposed findings or exhibits, and the matter shall be continued for the sole purpose of taking final action.
- O. Unless the Chairperson indicates otherwise at the time the matter is continued, no additional testimony shall be heard at the continued meeting.
- P. Study Sessions: When a matter is designated as a "study session" on the agenda, public testimony may be limited to particular persons at the discretion of the Chairperson. Where it is anticipated that someone other than the County staff will brief the Commission, the identity or affiliation of that person shall be indicated on the agenda.
- Q. Special Rules for Adjudicatory Hearings: The Chairperson may invoke special rules for the conduct of those hearings which in the opinion of the County Counsel are of an adjudicatory nature. In such cases, notwithstanding anything in these Bylaws and Rules of Procedure to the contrary, the following procedures shall apply:
1. Persons giving oral testimony may be sworn to the truth.
  2. Applicants or persons whose rights are immediately affected by the outcome of hearings shall be given an opportunity to present their case. Any witnesses on their behalf may be cross-examined by a representative of the county.
  3. The County staff shall present any additional evidence to the COMMISSION. Persons giving oral testimony may be cross-examined by applicants or their representatives.
  4. Both applicants and the County staff shall be afforded a reasonable opportunity to present rebuttal testimony.
  5. The Chairperson shall close the hearing. The Commission shall deliberate and vote. If the matter is continued, it shall be to a time certain.
  6. When special rules have been invoked, the Commission shall base its action solely on the weight of the evidence presented during the hearing.

### **ARTICLE VIII. Compensation and Reimbursement**

- A. Compensation: Each member of the Commission shall be eligible to receive a sum of \$100 for attendance at a Commission meeting, subject to a maximum reimbursement as specified by (Board



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Resolution, legislation, regulation, ordinance establishing authority for Commission. Attendance of less than one-half of a regular meeting shall be considered an absence and not subject to remuneration.

- B. Reimbursement: Commission members may be reimbursed for actual expenses incurred while performing within the scope of their duties to the extent permitted by applicable County policy. All requests for reimbursement shall be submitted in accordance with the policies and procedures adopted by the County on a form approved by the County Auditor-Controller.

### **ARTICLE XIV. Removal and Resignation of Members**

- A. Removal: The Board may, at any time and without cause, remove any Commission member from office prior to the expiration of his/her term of office by majority vote of the Board.
- B. Resignation: Resignation of Commission members shall be affected by a written letter of resignation submitted to the Chairperson of the Commission and to the Board.
- C. The Chairperson shall notify the Clerk of the Board in writing of any vacancies within 10 days of learning the existence of any such vacancy.

### **ARTICLE X. Conflict of Interest**

- A. Members of the Commission and any of its committees or subcommittees shall abstain from voting on any issue in which they may be personally interested to avoid a conflict of interest in accordance with County, state, and federal laws and shall refrain from engaging in any behavior that conflicts with the best interest of the County.
- B. Members of the Commission shall not vote nor attempt to influence any other Commission member on a matter under consideration by the Commission or any of its committees or subcommittees:
  - 1. Regarding the provision of services by such member (or by an entity that such member represents; or
  - 2. That would provide direct financial benefit to such member or the immediate family of such member; or
  - 3. Engage in any other activity constituting a conflict of interest under County, state, or federal law.
- C. If a question arises as to whether a conflict exists that may prevent a member from voting, the Chairperson or designee may consult with designated County staff to assist them in making that determination.
- D. To avoid a conflict of interest or the appearance of such conflict, all nominees to become members of the Commission shall disclose on forms provided by the County information regarding their private economic interests that may be implicated by their service on the Commission.
- E. Commission members shall timely file Statements of Economic Interests (Form 700) and other financial disclosures as required by law.

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- F. Commission members shall complete ethics training as required by County policy and Assembly Bill 1234 (Government Code sections 53234 through 53235.2).
- G. Neither the Commission nor any of its members shall promote, directly or indirectly, a political party, political candidate, or political activity using the name, emblem, or any other identifier of Commission.
- H. No assets or assistance provided by County to Commission shall be used for sectarian worship, instruction, or proselytization, except as otherwise permitted by law.

### **ARTICLE XI. Adoption and Amendment of Bylaws**

A. Adoption: An affirmative vote of at least 50%+1 of those voting, a quorum being present, shall be required to recommend these Bylaws for Board approval. These Bylaws become effective upon approval by the Board.

B. Amendments:

1. Any member of the Commission may propose amendments to these Bylaws.
2. Proposed amendments shall be submitted in writing and made available to each member of the Commission no less than five days prior to consideration before a vote can be taken.
3. An affirmative vote of at least 50%+1 of those voting, a quorum being present, shall be required to recommend Bylaw's amendments for Board approval Any amendments to the Bylaws become effective upon approval by the Board.

### **ARTICLE XII. Severability**

Should any part term, portion or provision of these Bylaws be determined to conflict with any law or otherwise unenforceable or ineffectual, the remaining parts, terms, portions, or provisions shall be deemed severable, and their validity shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the provisions that the members intended to enact in the first instance.

### **ARTICLE XV. Staffing Support**

Staff support from OC Development Services and County Counsel shall be provided to support the Commission in conjunction with the work of the Commission. Staff of OC Development Services sit as Executive Officer and Clerk of the Commission.