

**Full Text of Measure _
City of Newport Beach**

**Exhibit 1 to the City Council Resolution Regarding the
Amendment of the Newport Beach City Charter
to Provide for the Direct Election of the Mayor by the Voters**

SECTION 1: TEXT OF AMENDMENT TO NEWPORT BEACH CITY CHARTER

The City Charter of the City of Newport Beach is hereby amended as follows (underlining showing additions and ~~striketrough~~ showing deletions):

Section 400. Elective Officers.

The elective officers of the City shall consist of a City Council of six seven members and a Mayor. The term "City Council," "legislative body," or other similar terms as used in this Charter or any other provision of law shall be deemed to refer to the collective body composed of the Mayor and City Council members unless such other provision of this Charter or other provision of law expressly provides to the contrary or unless such interpretation would be clearly contrary to the intent and context of such other provision.

(a) Candidates for City Council shall be nominated from and by the electors of each of the six 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 City Council office shall be settled by the casting of lots.

Alternatively, and successively, two four four-year terms (Districts 2 and 5) shall be filled at one the general municipal election occurring in each even-numbered year that is evenly divisible by four and four three four-year terms (Districts 1, 3, 4, and 6) shall be filled at the next such general municipal election occurring in each even-numbered year that is not evenly divisible by four, 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.

(b) Candidates for Mayor shall be nominated from and by the electors of the City and elected 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 Mayor shall be settled by the casting of lots.

The office of Mayor shall be filled at the general municipal election occurring in each even-numbered year that is evenly divisible by four.

The term of office shall be four years. The term of Mayor 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.

Section 401. Eligibility.

(a) 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. No person shall be eligible to hold office as a member of the City Council for a term of office that immediately follows a term to which the person was elected Mayor.

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 not intended to change the limit on consecutive terms for a member of the City Council enacted by voters in November 1992 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.

(b) No person shall be eligible to hold the office of Mayor 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 City, 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 the office of Mayor for more than two (2) four (4) year terms.

This section is intended to prevent persons from serving more than two (2) terms in the office of Mayor, and shall not be construed to render ineligible any person who may have served as a member of the City Council.

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.

A vacancy in the office of Mayor from whatever cause arising, shall be filled for the remainder of the unexpired term by a special election called by the City Council to be held not less than 88 days nor more than 103 days after the effective date of the vacancy, except the special election may be conducted within 180 days of the effective date of the vacancy in order to consolidate with the City's general municipal election. An election shall not be ordered, and the office of Mayor shall remain vacant, if the term expires within the timeframe for holding a special election.

If a member of the City Council or the Mayor 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.

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.~~

~~(a) The Mayor shall preside at meetings and be a voting member of the City Council, and shall have a voice and vote in all its proceedings.~~

~~(b) Except as provided in Section 405, the Mayor shall have sole discretion to set City Council agendas and to change the order of business on the agendas.~~

~~(c) 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.~~

~~(d) The Mayor shall be the official head of the City for ceremonial purposes, and 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.~~

~~(e) 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.~~

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. With the concurrence of at least three members of the City Council at any public meeting, an item may be added to a future City Council agenda.

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. For purposes of quorum, the Mayor shall be counted as a member of the City Council. 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 and the Mayor 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.

Section 1004. Voters Signing Nomination Petitions.

The voters signing any petition for the nomination of any person to the office of Councilmember shall be residents and registered voters of the district from which such person is to be nominated.

The voters signing any petition for the nomination of any person to the office of Mayor shall be residents and registered voters of the City.

Section 1005. Districts.

The City is hereby divided into six seven districts, the names and respective boundaries of which shall be as established by ordinance. No ordinance changing and redefining the boundaries of any district shall be enacted within six months prior to any regular Councilmanic election.

Following the national census and each tenth year thereafter the City Council shall appoint a committee to study and report to the City Council on the advisability of redistricting the City. Upon receipt of any such committee report, and at any other time deemed necessary or desirable in order that the district boundaries be fair and logical, the City Council may by ordinance change and redefine the boundaries of any or all of the six seven districts herein established. The boundaries so defined shall be established in such manner that the districts shall, as nearly as practicable, constitute natural areas of contiguous and compact territory and provide fair representation on the City Council. Notwithstanding the provisions of Section 401, no redistricting shall disqualify any Councilmember from serving as Councilmember from the district from which he or her was nominated or appointed for the remainder of his or her term, if elected, or until the next general municipal election, if appointed. Any territory hereafter annexed to or consolidated with the City shall, at the time of such annexation or consolidation, be added by ordinance of the City Council to an adjacent district or districts.

SECTION 2: BALLOT DESCRIPTION

As provided in Government Code section 34458.5, the following ballot description is included in this proposed Charter Amendment measure:

CHARTER AMENDMENTS

DIRECT ELECTION OF MAYOR – The proposed Charter Amendment measure would amend Newport Beach City Charter Sections 400, 401, 1004, and 1005 to change the composition of the City Council from seven Council Members to a Mayor and six Council Members. The Mayor would be nominated by residents and registered voters of the City of Newport Beach ("City") and elected by the voters of the City at-large. The number of City Council districts would be reduced to six and the Council Members would be elected from each of the six districts by the City electors at-large. The person elected Mayor would serve a term of four years and would only be eligible to hold the office of Mayor for two four-year terms in the person's lifetime. Also, the Mayor would be ineligible to hold office as a Councilmember for the term of office that immediately follows a term to which the person was elected Mayor. This measure would also amend Charter Section 403 to provide a procedure for filling a vacancy in the office of Mayor.

Charter Sections 404, 405 and 410 would be amended to provide that the Mayor would: be counted as a Councilmember for purposes of establishing

a quorum to conduct business; preside at all Council meetings, be a voting member of the Council, have the discretion to determine the order of business and have a voice in all Council proceedings; and set Council meeting agendas; however, at any Council meeting, three Councilmembers would have the discretion to add an item to a future agenda. This Charter Amendment does not give the City Council power to raise its own compensation or the compensation of other City officials without voter approval.

SECTION 3: SEVERABILITY

It is the intent of the people that the provisions of this Charter Amendment measure are severable and that if any provision of this Charter Amendment measure, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Charter Amendment measure which can be given effect without the invalid provision or application.

SECTION 4: CONFLICTING MEASURES

In the event this Charter Amendment measure and another measure or measures relating to establishing the office of elected Mayor, City Council districts, and term limits for the Mayor, the other matters described herein shall appear on the same special municipal election ballot, the other Charter measure or measures shall be deemed to be in conflict with this Charter Amendment measure. In the event that this Charter Amendment measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

If this Charter Amendment measure is approved by the voters but superseded in whole or in part by any other conflicting measure approved by the voters at the same election, and such other conflicting measure is later found held invalid, this measure shall be self-executing and given full force and effect.

SECTION 5: IMPLEMENTATION

In the event this Charter Amendment measure is approved:

- A. The members of the City Council in office at the time these Charter provisions take effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified.
- B. The City Council shall, no later than six (6) months prior to the next general municipal election held after the year in which the Charter amendments adopted herein take effect, follow any process required by applicable law and adopt an ordinance to establish the respective boundaries of the six (6) City Council districts.
- C. The enactment of this measure shall not be interpreted or applied to reset or extend the limit on consecutive terms applicable to any person holding office as a member of the City Council at the time this measure is approved by voters.

SECTION 6: EFFECTIVE DATE

This Charter Amendment measure shall become effective in the manner allowed by law.