

BYLAWS AND OPERATING PROCEDURES
OF THE COUNTY OF SAN DIEGO
INDEPENDENT REDISTRICTING COMMISSION

Date Adopted: _____

ARTICLE I – AUTHORITY

The authority for the establishment and operation of the County of San Diego Independent Redistricting Commission (Commission) is set forth in California Elections Code sections 21550 through 21553 and Article IV, § 400.1 of the Charter of the County of San Diego.¹

ARTICLE II – PURPOSE

Section 2.01. **Purpose.** The Commission’s purpose is to establish single-member supervisorial districts for the County of San Diego Board of Supervisors pursuant to a mapping process using criteria as set forth in ~~the applicable sections of the Elections Code section 21552 and Article IV, § 400.1~~ of the County Charter. The federal government conducts a census every ten years, when it counts all individuals residing in the U.S., and district boundaries are redrawn every ten years based on that census data. The Commission is committed to drawing a supervisorial district map that will accurately and fairly represent the residents of San Diego County in accordance with applicable laws, and ~~to ensuring make it possible for~~ as broad and diverse ~~participation voices~~ as is possible ~~to participate~~ in the redistricting process.

Commented [GC(1): All references to specific sections of the law have been deleted and replaced by this general language. This is the only place where you will see the tracked change. All other places, the change has been made.

Commented [GC(2): No substantive change. Cleaning up grammar and syntax.

Section 2.02. **Independence.** Fourteen people shall be selected for the Commission in a process intended to ensure independence from the influence of the Board of Supervisors and reasonable representation of the County’s diversity, pursuant to applicable law.

Section 2.03. **Timing.** The Commission is required to adopt a redistricting plan adjusting the boundaries of the supervisorial districts and file the plan with the Clerk of the Board of Supervisors (Clerk of the Board) no later than the date set forth in the applicable sections of the California Elections Code .

ARTICLE III - COMMISSIONERS

Section 3.01. **Selection of Commissioners.** The Commission shall be comprised of fourteen (14) Commissioners who shall have submitted applications and met the specified qualifications as determined by the Clerk of the Board pursuant to the applicable sections of the Elections Code.

Section 3.02. **Compensation.** Commissioners shall receive no compensation ~~unless authorized by law~~, but shall be eligible for reimbursement of pre-approved expenses actually

Commented [GC(3): Request to discuss compensation. IRC does not have authority to grant itself compensation, but worth discussion (lessons learned, perhaps?) for bringing this issue forward to relevant parties who can address it.

¹ Note: all references to the California Elections Code and to the Charter of the County of San Diego include those laws as they currently exist, or may hereafter be amended.

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incurred and reimbursement of reasonable mileage for Commission business, ~~if applicable.~~

Commented [GC(4)]: Deleted—unnecessary.

Section 3.03. **Qualifications.**

- (a) Commissioners shall meet all the qualifications set forth in the applicable sections of the Elections Code.
- (b) Any Commissioner who ceases to meet the qualifications of the applicable section in the Elections Code requiring residency in San Diego County during that Commissioner’s term of service (e.g., moves outside San Diego County) must immediately notify the Chair and the Clerk of the Commission in writing of such fact.

Section 3.04. **Conduct.** Commissioners shall maintain the highest ethical standards and shall conduct themselves in a manner that ~~maintains the highest ethical standard and~~ reinforces public confidence in the integrity of the redistricting process. Commissioners and shall apply the relevant Elections Code sections ~~21551-21552~~ in an impartial manner.

Commented [GC(5)]: This section reworded (no substantive change) to fix “wordiness.”

Section 3.05. **Political Activity.** In order to promote confidence in the integrity of the redistricting process, the following guidelines and rules regarding political activity shall apply:

- (a) Commissioners should voluntarily refrain from publicly endorsing, publicly or otherwise publicly supporting or opposing any current member of or declared candidate for the County of San Diego Board of Supervisors, or engaging in any political activity related to said races, including making financial contributions (monetary or in kind) and including any ballot measures that pertain to or shall otherwise affect or influence the terms or offices of the Board of Supervisors. [option 1: for one year, beginning from December 31st of a year ending in zero.] [option 2: for a period of two years beginning from December 31st of a year ending in zero].

Commented [GC(6)]: Counsel: “Gov. Code § 3203 provides, “no restriction shall be placed on the political activities of any officer or employee of a state or local agency.” However, limitations on engaging in political activity during working hours or on the premises of the local agency are permissible. § 3207. There are examples of the activities of a commission itself being limited. Also, narrowly drawn restrictions to promote a compelling state interest may be permissible. Promoting confidence in the integrity of the IRC redistricting process may be such an interest, but there is no case that has considered a similar set of facts.”

- (b) The Commission is a non-partisan, non-sectarian, publicly-funded entity created by state law. It does not take part officially in nor does it lend its influence to any political issues. The Commission will not endorse, support or oppose any political activity or candidate for elective offices or any ballot measure. Individual Commissioners will not engage in political activity while engaged in Commission business or on County property. Individual Commissioners will not use public resources to engage in political activity or reference her/his title as Commissioner in any endorsement in a manner that implies representation of the Commission.

Commented [GC(7)]: These requirements are meant to remove Commissioners from any participation (besides voting) in elections in which they were involved in line-drawing to eliminate any and all appearances of conflict or impropriety.

- (c) Except as set forth above, there shall be no prohibitions on political activity for any other elective offices or ballot measures.— Over the same period, Commissioners will disclose within 24 hours any political activity, including any endorsement, support of or opposition to current or declared candidates for elective offices or any ballot measure within the geographical boundaries of the County of San Diego. Such disclosures shall be summarized in writing by that Commissioner and forwarded to the Clerk of the Commission within 24 hours of said activity for posting on the Commission website in a political activity log maintained for that purpose.

Commented [GC(8)]: In response to feedback, deleted previous language prohibiting political activity in County elections except for BOS (sec. (a) above). Added clarifying language, however, regarding that political activity is as a private citizen and never as a Commissioner.

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~~(a)~~

(d) Commissioners shall be ineligible for a period of five years, beginning from the date of appointment, to hold elective public office at the federal, state, county, or city level in this state. Commissioners shall be ineligible for a period of three years, beginning from the date of appointment, to hold appointive federal, state, or local public office, to serve as paid staff for, or as a paid consultant to, the Board of Equalization, the Congress, the Legislature, or any individual legislator, or to register as a federal, state or local lobbyist in the state.

Commented [GC(9): This language is taken directly from the elections code. Added here in response to Commissioner suggestion.

Section 3.06. **Ethics Training.** All Commissioners shall complete the Fair Political Practices Commission training titled AB 1234 Local Officials Ethics Training within six (6) months of selection to the Commission and shall provide proof of completion to the Clerk of the Commission.

Section 3.07. **Conflict of Interest Disclosure.** All Commissioners shall complete a Statement of Economic Interests (Form 700) upon taking office and file the Form 700 as required.

Section 3.08. **Attendance.** Commissioners are expected to attend all regular meetings, special meetings, and public hearings, and are expected to serve on standing and ad hoc committees, or in other roles, as needed. If a Commissioner cannot attend a regular or special meeting, or public hearing, they must notify the Chairperson in advance of such an absence. Absences may be excused or unexcused. An unexcused absence means an absence that is not approved by the Chairperson. Consistent with Sections 3.09(a)(i) and (v) below, failure to attend public meetings or hearings may result in removal from the Commission.

Section 3.09. **Vacancy.** Any vacancy on the Commission shall ~~may~~ be filled by the Commission at a public meeting as described in Section (b) below.

Commented [GC(10): Changed "may" to "shall" to reflect the fact that law requires Commission to have 14 members. See legal comments.

(a) **Vacancy Definition.** A vacancy shall occur upon the following occurrence:

- i. Death or three (3) month or longer incapacity of a Commissioner;
- ii. Submission of written notice to the Chair stating a Commissioner's intent to resign,
- iii. Conviction of a felony or any crime involving moral turpitude;
- iv. A Commissioner's failure to continue to meet the qualifications specified in the applicable sections of the Elections Code; in the Elections Code section 21550; or
- v. Removal of a Commissioner by a recorded affirmative vote of nine (9) Commissioners, due to three consecutive unexcused absences, or five total unexcused absences in a calendar year, from regularly scheduled Commission meetings or public hearings.

Commented [GC(11): Commissioner suggestion that the term "dishonesty" be added. Not added because dishonesty is included within moral turpitude and is such a broad term that it would confuse more than it would clarify.

(b) **Filling a Vacancy.** Any vacancy on the Commission shall be filled by the

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Commission at a properly noticed meeting called in whole or in part for that purpose within fifteen (15) business days of the vacancy occurring. The Commission shall fill the vacancy in a manner such that the newly constituted Commission, as a whole, will meet the criteria pursuant to the applicable sections of the Elections Code. The Commission shall select a replacement from the pool of remaining qualified candidates from the initial Commissioner selection process prescribed by the applicable sections of the Elections Code.

Commented [GC(12): Language added for clarity

Section 3.10. **Communication.**

(a) **Email.** Commissioners shall use the County-provided email address for all communications involving Commission business. Any communications involving Commission business not sent to a Commissioner’s County-provided email (e.g. sent to a personal email or other such electronic means of communication) shall be forwarded to the Commissioner’s County-provided email address. Commissioners shall retain emails in accordance with the County’s email retention policy, which shall be public records pursuant to applicable sections of the Elections Code and the California Public Records Act.

Commented [GC(13): Language added specifying that Commissioners are subject to County policy and public records law.

(b) **Representing the Commission.** The Chairperson is the only official spokesperson for the Commission, except as provided in Article V, Section 5.02(f). No statements shall be made, or action taken by, any Commissioner on behalf of, or in the name of the Commission, unless specifically authorized by the Chairperson. This provision is not intended to prohibit the discussion of procedural information, such as discussion of the time, place and list of items on the agendas (but not the substance of those agenda items) of upcoming meetings, public hearings or other Commission events.

Commented [GC(14): Counsel: Slightly ambiguous, so added language to clarify that discussion of substance of agenda items is not allowed.

(c) **Prohibition Regarding San Diego County Supervisors.** Commissioners shall not communicate outside of a public meeting with any member of the Board of Supervisors, a member’s immediate family member, a member’s staff, or a member’s paid consultant regarding redistricting matters. This section shall not restrict the Chairperson from communicating with Board of Supervisors’ staff regarding administrative matters of the Commission.

(d) **Communications Outside of Public Meetings or Hearings.** Commissioners shall refrain from discussing with or receiving communications from anyone outside of a public meeting about the redrawing of district boundaries for each of the five supervisorial districts in San Diego County. In the event Commissioners receive or engage in such communications, Commssioners shall promptly report all such communications regarding the redrawing of district boundaries for each of the five supervisorial districts in San Diego County that occur outside of public meetings or hearings (including written, electronic, and oral communications), as specified in sections (i) and (ii) below, and all such communications shall be published on the Commission’s “ex parte communications log.” This provision is intended to ensure that communications about the line drawing process that could impact or influence the specific location of district boundaries are placed into the public record. This provision is not intended to restrict Commissioners

Commented [GC(15): Added this language to state/clarify that conversations about line drawing are not allowed outside of public meetings. (previously omitted).

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from directly communicating with another Commissioner, Commission staff, legal counsel, or consultants retained by the Commission, nor shall such communications require disclosure as described in subsections i and ii below.

- i. **Oral Communications.** Oral communications ~~subject to this policy received by a Commissioner~~ subject to this policy must be summarized in writing by that Commissioner, including the name of the person or organization and date of communication, and forwarded to the Clerk of the Commission within 24 hours of the communication for posting on the Commission's ex parte communications log. The Clerk of the Commission will maintain the ex parte communications log and advise the Commission that the log has been updated. The log will be published on the Commission website.
 - ii. **Written Communications.** Copies of ~~all~~ written and electronic communications ~~subject to this policy received or initiated by a Commissioner~~ subject to this policy shall be forwarded to the Clerk of the Commission within 24 hours of receipt for distribution to all Commissioners, posting on the Commission's website, and inclusion on the ex parte communications log within 24 hours of receipt. The Clerk of the Commission will maintain the ex parte communications log and advise the Commission that the log has been updated. The log will be published on the Commission website.
- (e) **Internet/Social Media.** Commissioners shall not communicate ~~on the subject of/about~~ the redrawing of district boundaries for each of the five supervisorial districts in San Diego County ~~outside of the public meetings~~ on any internet platform or social media website. "Communicate" ~~includes oral or written communication and~~ includes the use of digital icons that express emotion in response to a communication. Subject to the foregoing prohibition, any and all communications on social media shall comply with the requirements of the Ralph M. Brown Act regarding the number of Commissioners involved with a given communication. This section is not intended to prohibit the publication of information regarding the time, place and agendas of upcoming Commission meetings, public hearings or other Commission events.

Commented [GC(16)]: Language added for clarity.

Commented [GC(17)]: Language added and deleted for clarity.

Commented [GC(18)]: Language added and deleted for clarity.

ARTICLE IV – POWERS AND DUTIES

Section 4.01. **Power & Duty.** The Commission has the powers and the duties to establish single-member supervisorial districts for the Board of Supervisors pursuant to a mapping process using criteria as set forth in the applicable sections of the Elections Code section 21552 and Article IV, § 400.1 of the County Charter. The Commission is required to act independently from the influence of the Board of Supervisors in the performance of these duties. The Commission has decision-making authority on all redistricting matters and shall take such action as is required to be in compliance with its independence requirement and authority throughout its tenure.

Section 4.02. **Prohibitions.** The Commission shall not consider the place of residence of any incumbent or political candidate in the creation of a map. Pursuant to the applicable sections of the Elections Code, districts shall not be drawn for purposes of favoring or discriminating

Commented [GC(19)]: This added language is an attempt to incorporate a variety of comments and concerns voiced by Commissioners, but particularly Commissioner Kruglyak's. While her comments were focused on SSC, the thought is that they involved a broader issue and could be addressed in this section.

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against an incumbent, political candidate, or political party.

Section 4.03. **Public Records.** All records of the Commission related to redistricting and all data considered by the Commission in drawing the draft and final maps are public records per the applicable sections of the Elections Code.

Section 4.04. **Public Hearings.** The Commission shall conduct public hearings as required by the applicable sections of the Elections Code.

Section 4.05. **Redistricting Plan.** The Commission shall adopt a redistricting plan adjusting the boundaries of the supervisorial districts and shall file the plan with the Clerk of the Board county elections official by the map adoption deadline set forth in the applicable sections of the Elections Code.

Commented [GC(20): Language changed to mirror language in the law.

Section 4.06. **Consultants.** The Commission shall determine if and for what purposes consultants (sometimes referred to in these by-laws and other Commission documents as “service providers”) are needed to assist the Commission in fulfilling its duties, as outlined in Section 4.01, above, including retention of specialized legal counsel. The Commission shall decide the process for selecting consultants and shall be responsible for the selection of consultants, in accordance with all applicable laws and regulations, including those set forth in the applicable sections of the Elections Code. The Commission will ~~continue to perform its oversight function and~~ retain all decision-making authority, ~~to~~ direct and define the activities of the service providers and consultants, and continue to perform its oversight duties on these activities.

Commented [GC(21): Language added to track with 4.01, and to clarify as well as to clean up.

Section 4.07. **Committees.** The Commission may establish ad hoc and/or standing committees to focus on key issues. Such committees shall consist of six (6) or fewer Commissioners. The specific duties of ad hoc or standing committees will be determined by the Commission. Consistent with the Ralph M. Brown Act, the Chairperson or a Vice-Chairperson may serve as an ex-officio member of any committee. An ad hoc committee member’s communications, in furtherance of the purpose of the ad hoc committee, do not require disclosure pursuant to Article III, Section 3.10(d) of these bylaws. The ad hoc committee shall report to the full Commission at its next meeting all substantive communications and activities undertaken by the committee. The Commission will retain all authority to direct and define the activities of the committees.

ARTICLE V – OFFICERS, SINGLE POINT OF CONTACT, AND STAFF

Section 5.01. **Officers.** The initial eight (8) randomly selected Commissioners shall select an Interim Chairperson and an Interim Vice Chairperson who will serve in that capacity until the full Commission of 14 members is selected and seated. Thereafter, the full Commission shall select from its membership a Chairperson- and one or more Vice Chairperson(s) and any other officers it deems necessary. The Commission officers may rotate or serve simultaneously as specified by the Commission. These officers may exercise powers and shall perform the duties prescribed by law, these bylaws, and any parliamentary procedures adopted by the Commission.;

Section 5.02. **Duties of the Chairperson.** The duties of the Chairperson shall include the following:

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- (a) To convene and preside over regular and special Commission meetings and public hearings and perform duties otherwise established by these Bylaws and Operating Procedures.
- (b) To set the meeting agendas in collaboration with the Vice Chairperson(s).
- (c) To determine whether a quorum is present, subject to the requirements of the applicable sections of the Elections Code
- (d) To call special meetings, as allowed by law, when necessary.
- (e) To appoint a Commissioner to serve as Single Point of Contact for Commission consultants pursuant to Section 5.05.
- (f) To serve as the sole official spokesperson for the Commission unless this responsibility is delegated in writing. Any inquiries will be directed to the attention of the Chairperson.
- (g) To assign duties to the Vice Chairperson(s) as necessary.
- (h) To perform other such duties of the office as prescribed by the parliamentary procedures adopted by the Commission.

Section 5.03. **Duties of the Vice Chairperson(s).** The duties of the Vice Chairperson(s) shall include the following:

- (a) To collaborate with the Chairperson in setting the meeting agenda.
- (b) To perform coordinating functions for the Single Point of Contact for each consultant as needed and other duties as assigned by the Chairperson.
- (c) To assume, in the absence of the Chairperson, the duties and responsibilities of that office on a rotating basis in last name alphabetical order or as mutually agreed by the Officers.

Section 5.04. **Officer Vacancy.** If the office of the Chairperson is vacated, the Vice Chairperson(s) will assume the duties of the Chairperson until a Chairperson is selected by the Commission at the next regular meeting. If the office of a Vice Chairperson is vacated, the Chairperson may temporarily appoint a member of the Commission to fill the vacancy until a new Vice Chair is selected by the Commission.

Section 5.05. **Role of the Single Point of Contact.** To facilitate the provision of services by consultants to the Commission, the Commission may establish a Single Point of Contact (SPOC) for each consultant. The Chairperson will appoint the SPOC who will serve as the Commission's liaison with a contracted consultant between Commission meetings, facilitating communications, coordinating activities, and reviewing performance relative to contracted services. The specific duties of the SPOC will be determined by the Commission. A SPOC's communications with a consultant do not require disclosure pursuant to Article III, section 3.10(d) of these bylaws. Legal counsel retained to represent the Commission is not subject to this section.

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Section 5.06. **Commission Staff.** ~~While the Commission operates independently from the influence of the County of San Diego Board of Supervisors, Election Code section 21552(a)(8) requires that~~ The County of San Diego Board of Supervisors is required to provide reasonable funding and staffing for the Commission. Staff is key to the successful, independent operation of the Commission in accordance with law. Consistent with the legislative intent in creating the Commission, Commission staff performs its duties in a manner to safeguard the independence of the Commission pursuant to the applicable sections of the Elections Code and to support the legislative mandate that the Commission apply the law in a manner that is impartial and reinforces public confidence in the integrity of the redistricting process.

Commented [GC(22)]: Deleted due to redundancy.

(a) As part of staffing required by the Commission, County may provide general counsel on an interim basis until such time that the Commission selects permanent general counsel, subject to the applicable sections of the Elections Code.

Commented [GC(23)]: This paragraph and language added to clarify role of general counsel and staff/commission function related to retention of general counsel.

~~(a)~~(b) The Clerk of the Commission attends all Commission meetings and records the minutes all such meetings.

~~(b)~~(c) The Clerk of the Commission keeps the roll, certifies the presence and maintenance of a quorum for meetings, calls the roll and tallies votes, keeps records of motions and actions as they occur at each meeting, and announces the results of voting on motions.

~~(c)~~(d) The Clerk of the Commission serves as the parliamentarian to the Commission.

~~(d)~~(e) Commission staff provides administrative and organizational support to the Commission, including recordkeeping, to facilitate Commission compliance with applicable sections of the Elections Code, by, among other actions:

- (i) Maintaining ongoing communication with the Chair about Commission business.
- (ii) Assisting in coordinating and supporting the duties, goals, functions, and operations of the Commission in consultation with the Chair, including assisting ad hoc committees and standing committees formed by the Commission and such SPOC as may be appointed.
- (iii) Using best efforts to count the number of members of the public attending a Commission meeting, tallying the number of phone calls, emails, and in-person communications from the public since the previous meeting, and entering such information into the current meeting's minutes.
- (iv) Providing administrative and organizational support for preparation of the agenda and supporting materials.
- (v) Posting notices of meetings as required by law and maintaining all records of Commission business as required by law.
- (vi) Maintaining and reasonably promptly updating an electronic log of oral ex parte communications required to be disclosed pursuant to Article III, § 3.10(d) and an

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electronic repository of all written or electronic communications required to be disclosed pursuant to Article III, § 3.10(d), and reasonably promptly advising the Commissioners when the log or the repository has been updated.

~~(vii) Maintaining an electronic record of all phone calls, emails, other written and in-person communications from members of the public when the Commission is not in session, including the date, name and address of the person sending the communication, and reasonably promptly advising the Commissioners of the communication.~~

~~(viii)~~(vii) Providing information requested by a Commissioner.

Commented [GC(24): This section is redundant to paragraphs above.

ARTICLE VI - MEETINGS

Section 6.01. **Brown Act.** The Commission is subject to the Ralph M. Brown Act.

Section 6.02. **Quorum.** At least nine (9) Commissioners of the 14-member Commission constitute a quorum and are required to take affirmative action. Less than a quorum may adjourn a meeting.

Section 6.03. **Voting.** Voting is done on the basis of one vote per person. No proxy or absentee voting is permitted. Nine or more affirmative votes shall be required for any official action.

Section 6.04. **Rules of Order.** Except as otherwise provided by these Bylaws and Operating Procedures, Rosenberg's Rules of Order shall govern the procedure at meetings of the Commission. https://www.cacities.org/Resources/Open-Government/RosenbergText_2011.aspx. The Chairperson or Commission may formulate additional specific procedural rules of order to govern the conduct of its meetings. A technical defect in following the rules governing Commission meetings shall not invalidate official action taken by nine or more affirmative votes.

Section 6.05. **Regular Commission Meetings.** The full Commission, once seated, shall adopt a regular schedule for meeting twice per month and shall schedule meetings at various times to accommodate a variety of work schedules and to reach as large an audience as possible. The regular meeting schedule can be modified by the Commission. The Commission may schedule additional meetings as needed.

Section 6.06. **Special Commission Meetings.** Special Meetings of the Commission may be called in the manner provided by the Ralph M. Brown Act.

Section 6.07. **Schedule and Agenda Posting.** All Commission meeting schedules and agendas will be posted as required by the Ralph M. Brown Act and the Elections Code insofar as its provisions supersede the Ralph M. Brown Act. Meetings will be recorded and posted online.

Section 6.08. **Public Comment.** Public comment on non-agenda items will be limited to 2 minutes per person with an opportunity to provide such comment at the beginning of the

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meeting, and public comment on agenda items will be limited to 3 minutes per person. Public speakers using translation assistance will be allowed to testify for twice the amount of the public testimony time limit. If simultaneous translation services are used, speakers will be governed by the public testimony time limit applied to speakers not requesting translation assistance. The Commission Chairperson may increase or decrease the time per person in the exercise of the Chairperson's sound discretion, provided, however, that to the extent time is increased or decreased, all persons speaking on a particular item will be given equal time. The Chairperson may reopen non-agenda public comment, or public comment on an item on the agenda, in the exercise of the Chairperson's sound discretion.

ARTICLE VII - ADDITIONAL PROVISIONS

Section 7.01. **Adoption of Bylaws.** These Bylaws and Operating Procedures may be adopted by a vote of nine (9) of the fourteen (14) the Commissioners.

Section 7.02. **Amendment of Bylaws.** These Bylaws and Operating Procedures may be amended by a vote of nine (9) of the fourteen (14) the Commissioners.

Section 7.03. **Additional Rules and Regulations.** In addition to the Bylaws and Operating Procedures, the Chairperson or Commission may prepare and establish rules and regulations for the conduct of its business.

Section 7.04. **Enforcement of Bylaws.** The Commission may take such appropriate action as allowed by law to enforce these bylaws.

These Bylaws and Operating Procedures were approved by the County of San Diego Independent Redistricting Commission on _____.