

ORDINANCE NO. 3224

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, ADDING A NEW ARTICLE 3 TO TITLE 2 OF VOLUME 1 OF THE ONTARIO MUNICIPAL CODE TO CHANGE THE CITY'S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT ELECTIONS WITH RESPECT TO ELECTING CITY COUNCIL MEMBERS AND MAINTAINING AN ELECTIVE MAYOR, ESTABLISHING DISTRICT BOUNDARIES, SCHEDULING ELECTIONS WITHIN THE DISTRICTS, AND MAKING CERTAIN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the City of Ontario, California ("City") is a general law city, duly organized under the constitution and laws of the State of California; and

WHEREAS, the City and its legislative body, the City Council, supports the full participation of all eligible and registered voters in electing Members of the City Council; and

WHEREAS, four of the members of the Ontario City Council are currently elected in at-large elections, in which each City Councilmember is elected by all registered voters of the entire City, with the Mayor being separately elected by all registered voters of the entire City, pursuant to California Government Code sections 34871 and 34900 et seq.; and

WHEREAS, on September 28, 2016, Governor Edmund G. Brown, Jr. signed Assembly Bill 2220 ("AB 2220"), which became effective January 1, 2017, and amended California Government Code section 34886 to authorize the City Council of any city, regardless of population size, to adopt an ordinance change to a by-district system of electing City Councilmembers, including with an elective mayor, without the need to submit such an ordinance to voters for approval; and

WHEREAS, on September 28, 2016, Governor Edmund G. Brown, Jr. also signed Assembly Bill 350 ("AB 350"), which became effective January 1, 2017, which requires a City that changes to district-based elections to hold public hearings before and after drawing a preliminary map or maps of the proposed district boundaries, and to publish and make available for release at least one draft map and the potential sequencing of elections; and

WHEREAS, on or about March 5, 2020, the City received a complaint asserting that the City's current at-large electoral system violates the California Voting Rights Act of 2001 ("CVRA"); and

WHEREAS, the complaint does not contain sufficient evidence of a violation of the CVRA, but the cost of defending against a lawsuit under the CVRA is extremely high, even if the City is successful, and such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and

WHEREAS, on or about June 2, 2021, in order to avoid spending additional taxpayer dollars in the defense of a potentially extremely expensive lawsuit, the City Council determined that it is in the best interest of the City to enter into a settlement agreement and move from its current at-large electoral system to a by-district election for members of the City Council, with an elective mayor pursuant to California Government Code section 34886 and in furtherance of the purposes of CVRA, and to that end, the City Council has undertaken an extensive public outreach effort, including multiple workshops and public hearings, at which time the public was invited to participate and provide input as to the proposed boundaries, content and composition of the districts and the potential sequencing of elections; and

WHEREAS, under the provisions of California Election Code section 10010, a City that changes from an at-large method of election to a district-based election must do all of the following before a public hearing at which the City Council votes to approve or defeat an ordinance establishing district-based elections:

- Before drawing a draft map or maps of the proposed boundaries of the districts, the City must hold at least two public hearings over a period of no more than 30 days, at which the public is invited to provide input regarding the composition of the districts.
- After all draft maps are drawn, the City must publish and make available for release at least one draft map and the potential sequence of the elections.
- The City must hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map(s) and the proposed sequence of elections. The first version of a draft map must be published at least seven days before consideration at a hearing; and

WHEREAS, on February 27, 2020, the City Council adopted a Resolution of Intention, outlining the City Council's intention to transition from at-large to district-based elections, specific steps the City Council will undertake to facilitate this transition, and an estimated time frame for doing so; and

WHEREAS, on April 5, 2022 and May 10, 2022, the City Council conducted two (2) public hearings for the purpose of soliciting public input and comments on the composition of the proposed election districts; and

WHEREAS, the City Council also conducted public workshops on April 4, 6, 11, 12, and 13, 2022, at which time the City provided information on the districting process and informed the public on ways to become involved; and

WHEREAS, on May 14, 2022 and June 4, 2022, the City conducted four (4) additional public workshops, to instruct the public in the use of the online and paper mapping tools; and

WHEREAS, ten (10) draft election district maps were placed on the City's public webpage for public review on June 14, 2022; and

WHEREAS, six (6) additional draft election district maps were placed on the City's public webpage for public review on June 28, 2022; and

WHEREAS, on September 8, 10, 16, 17, 24, 2022 and October 8, 12, 22, 2022 the City conducted additional outreach in the form of community engagement meetings both in person and virtually; and

WHEREAS, as a result of the additional public meetings and community engagement, one (1) additional draft election district map was submitted by the plaintiff in the aforementioned California Voting Rights Act action to transition to by-district elections, labeled Map 17 and drafted in collaboration with the Black and Brown Alliance and the Center for Community Action and Environmental Justice; and

WHEREAS, Map 17 is population balanced, draws compact, contiguous districts, respects the communities of interest identified by various speakers during the public hearing process, and recognizes the geographic integrity of the historic district in the northwest quadrant of the City and the Ontario Ranch area located in the southern portion of the City; and

WHEREAS, Map 17 was placed on the City's public webpage for public review on October 24, 2022; and

WHEREAS, on June 21, July 5, July 19, 2022, November 1, 2022, and December 6, 2022, the City Council conducted five (5) additional public hearings, at which time all interested persons were afforded an opportunity to provide input regarding the content of the draft maps and the proposed sequence of elections, and at which time the City Council did hear and consider such public input regarding the content of the draft maps and the proposed sequence of elections; and

WHEREAS, the purpose of this ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for election of the Members of the City Council of the City of Ontario by-district in four (4) single-member districts as reflected in Exhibit A to this ordinance, and providing for the election of an elective Mayor of the City of Ontario to be elected City-wide; and

WHEREAS, pursuant to California Government Code section 34886, it is declared the change in the method of electing members of the City Council of the City of Ontario made by this ordinance is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code) and to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new Article 3 is hereby added to Title 2 of Volume 1 of the Ontario Municipal Code with the title "City Council Electoral System" to read as follows:

“Sec. 2-1-301 City Council Electoral System

(a) At-large election—Mayor. Pursuant to California Government Code section 34886, the mayor shall be voted on at-large.

(b) City Council districts established. Four City Council districts are hereby established in the City of Ontario. The boundaries and identifying number of each district shall be as described on the Council District Map 17 attached hereto as Exhibit “A” and incorporated herein by this reference.

(c) Election of members of the City Council by district.

A. Following the effective date of the ordinance codified in this section and upon the commencement of “by district” elections in the order established in section (d) of this section 2-42, members of the City Council shall be elected “by district” as defined in California Government Code Section 34871 or any successor statute. Except for the Mayor, a person shall not be eligible to be elected to be a member of the City Council unless he or she is otherwise qualified as required by law and resided in the district, and both resided in the geographical area making up the district from which he or she is nominated to be elected and was a registered voter of the City of Ontario at the time nomination papers are issued to the candidate as provided for in Section 10227 of the California Elections Code. It is the intent of the City Council, in enacting this ordinance, that no term of any member of the City Council that commences on or prior to the effective date of the ordinance codified in this section shall be affected prior to its expiration date.

B. Registered voters signing nomination papers or voting for a member of the City Council shall be residents of the geographical area making up the district from which the member is to be elected.

C. The terms of the office of each member elected to the City Council, including the Mayor, shall remain four years.

(d) Commencement of district elections. It is the intent of the City Council, in enacting this ordinance, that this section shall not affect any term of office in existence or commencing on or before the effective date of the ordinance codified in this section. Commencing with the general municipal election in November of 2024 and thereafter, the voters in districts 1 (one) and 4 (four) shall elect members of the City Council by district for full four-year terms. At the general municipal election in 2026 and thereafter, the voters in districts 2 (two) and 3 (three) shall elect members of the City Council and the Mayor shall be elected at large for full four-year terms.

(e) Adjustment of boundaries.

- A. Pursuant to Elections Code Section 21601, as it may be amended, the City Council shall, by ordinance or resolution, adjust the boundaries of any or all of the districts following each decennial federal census. Using the census as a basis, the City Council shall adjust the boundaries so that the districts shall be as nearly equal in population as practicable and in compliance with all applicable provisions of law. Any adjustment of district boundaries shall be made by ordinance or resolution, adopted by the City Council before the first day of November of the year following the year in which each decennial federal census is taken. Prior to the public hearing approving the adjustment of the district boundaries, the City Council shall hold at least one public hearing on the proposed district boundaries as required by Election Code Section 21607.
- B. At the time of any annexation of territory to the City, the City Council shall designate, by resolution adopted by a vote of at least a majority of the City Council, the contiguous district to which the annexed territory shall be a part and shall amend the district boundaries if necessary in accordance with Election Code Section 21603, as it may be amended.
- C. Pursuant to Elections Code Section 21606, the term of office of any Council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected. At the first election for Council following adjustment of the boundaries of the districts, a person meeting the requirements of Government Code Section 34882 shall be elected to the City Council for each district under the readjusted district plan that has the same district number as a district whose incumbent's term on the Council is due to expire.

(f) Implementation. If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts."

SECTION 2. Effective Date. This Ordinance shall become effective thirty (30) days after its adoption.

SECTION 3. Inconsistencies. To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation government the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

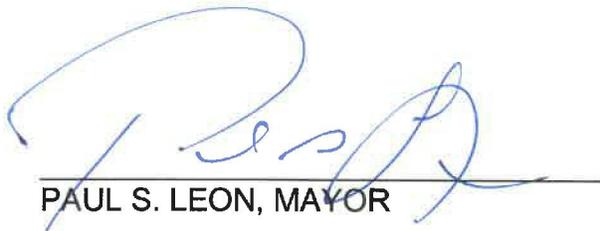
SECTION 4. Interpretation. In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its state purposes.

SECTION 5. CEQA. Pursuant to Section 15320 of the Guidelines for the Implementation of the California Environmental Quality Act ("CEQA"), further review under CEQA is not required because the City Council action in establishing district-based elections consists of a change in the organization or reorganization of a local governmental agency where the change does not change the geographical area in which previously existing powers are exercised. Therefore, the City Council finds that it can be seen with certainty that there is no possibility that this action will result in any environmental effect. The City Clerk is hereby directed to file a Notice of Exemption with the County Clerk within three (3) days following the date of this Ordinance.

SECTION 6. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Ontario.

SECTION 7. Severability. If any section, subsection, subdivision, sentence, clause phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court or competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Ontario hereby declares it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED on this 20th day of December 2022.



PAUL S. LEON, MAYOR

ATTEST:



SHEILA MAUTZ, CITY CLERK

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mark A. Krieger", is written above a horizontal line.

BEST BEST & KRIEGER LLP
CITY ATTORNEY

EXHIBIT A
ELECTION DISTRICT MAP

Map 17 – Submitted by Plaintiff Chris Robles, CCAEJ, & Brown and Black Coalition

