

URGENCY ORDINANCE NO. 2022 - 2500

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, ESTABLISHING CITY COUNCIL ELECTION DISTRICT BOUNDARIES, SEQUENCING ELECTIONS WITHIN THOSE BOUNDARIES, AND ADDING CHAPTER 2.77 (“BY-DISTRICT ELECTIONS”) OF TITLE 2 (“ADMINISTRATION”) TO THE NATIONAL CITY MUNICIPAL CODE TO CHANGE THE CITY’S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT WITH RESPECT TO ELECTING MEMBERS OF THE CITY COUNCIL

CITY ATTORNEY SUMMARY

This Ordinance changing the City’s Electoral System from At-Large to By-District with Respect to Electing Members of the City Council

WHEREAS, the Mayor and four members of the City Council of the City of National City (“City”) are currently elected in “at-large” elections, in which the Mayor and each City Councilmember are elected by the registered voters of the entire City; and

WHEREAS, Government Code section 34886, in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each Councilmember is elected only by the voters in the district in which the Councilmember resides; and

WHEREAS, the City received a letter dated November 8, 2021 containing unsubstantiated allegations that the City’s at-large electoral system prevents members of National City’s Filipino/API community from electing their preferred candidate and violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declined to adopt a district-based electoral system; and

WHEREAS, the City Attorney has advised that given the CVRA’s elimination of two elements of the U.S. Supreme Court’s requirements to establish a federal Voting Rights Act challenge under *Thornburg v. Gingles* (1986) 478 U.S. 30, a CVRA challenge is more easily made on the basis of an argument that “racially polarized voting” exists, regardless of whether racial minorities have successfully elected preferred candidates in the past under an at-large electoral system or whether there is an absence of historical racial discrimination in the electoral system based on the totality of the circumstances; and

WHEREAS, the cost of defending a challenge under the CVRA can exceed several hundred thousand dollars, no City has ever prevailed to date in defending a CVRA lawsuit challenging at-large electoral systems, and the risk of losing such a challenge includes the possible award of attorneys’ fees to the plaintiffs by a court; and

WHEREAS, the City Council has concluded, on the advice of the City Attorney, that the public interest would be better served by considering a transition to a district-based electoral system pursuant to the “safe harbor” provisions of Elections Code section 10010; and

WHEREAS, pursuant to Elections Code Section 10010, Subdivision (e)(3)(A), the City Council adopted Resolution No. 2021-201 on December 21, 2021, declaring its intent to transition from an at-large to a district-based elections system; and

WHEREAS, the City contracted with Redistricting Insights, Inc. to draw draft election district maps for the City Council’s consideration and to make a map drawing software available to its residents; and

WHEREAS, pursuant to Elections Code Section 10010, Subdivision (a)(1), the City contracted with Falcon Strategies LLC to publicize the public hearings and workshop by City website, City Social Media (Facebook, Twitter, Instagram), El Latino Newspaper, Filipino Press Newspaper, The Star News Newspaper, posting notices on bulletin boards located outside City Hall, participating in interviews with Radio Latina and CBS, and distributing flyers translated into Spanish and Tagalog; and

WHEREAS, pursuant to Elections Code Section 10010, Subdivision (a)(1), before drawing draft maps of the proposed boundaries of the districts, the City held public hearings on February 3 and 22, 2022 and a community workshop on February 5, 2022, to invite the public to provide input regarding the composition of the districts and communities of interest; and

WHEREAS, pursuant to Elections Code Section 10010, Subdivision (a)(2), after the draft maps were drawn, the City held public hearings on March 5, 2022, March 15, 2022, and March 21, 2022, and April 12, 2022, to invite the public to provide input regarding the content of the draft maps and the proposed sequence of elections; and

WHEREAS, pursuant to Elections Code Section 10010, Subdivision (a)(2), the draft maps were published at least seven days before consideration at each public hearing; and

WHEREAS, the adoption of a district-based electoral system will not affect the terms of any sitting Councilmember or Mayor in office at the time of the adoption of an ordinance instituting a district-based voting system, each of whom will serve out his or her current term.

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

Section 1. Recitals. The Recitals above are true and correct and incorporated herein by reference.

Section 2. Addition. Chapter 2.77 (“By-District Elections”) of Title 2 (“Administration”) is added to the National City Municipal Code to read as follows:

“Chapter 2.77 – By-District Elections

2.77.010 – Purpose.

The city council declares that this change in method of electing members of the city council is enacted in furtherance of the California Voting Rights Act of 2001.

2.77.020 – By-district elections

Commencing with the general election in November 2022, the four members of the city council shall be elected in the electoral districts established by 2.77.030 and subsequently reapportioned as provided by state law. Elections shall take place by-district as that term is defined in California Government Code Section 34871, meaning one member of the city council shall be elected from each district by the voters of that district alone.

2.77.030 – District boundaries.

Members of the city council shall be elected on a by-district basis from the four city council districts, the boundaries of which shall be identified in the City Council District Map.

2.77.040 – Term and election sequence.

Members of the city council shall be elected to a four year term in accordance with the election sequence identified in the City Council District Map.

2.77.050 – City council residency

Each member of or candidate for the city council must reside in the district and be a registered voter in the district in which he or she seeks election at the time nomination papers are issued pursuant to Government Code Section 34882 and Elections Code Section 10227. Any sitting city councilmember elected at-large may reside anywhere within the city during the pendency of his or her term.

2.77.060 – Termination of residency

Termination of residency in a district by a member of the city council elected by-district shall create a vacancy for that city council district unless a substitute residence within the district is immediately declared and established within thirty days after the termination of residency. In the event that a vacancy is created as a result of termination of residence as provided herein, such vacancy shall be filled pursuant to the provisions of the Elections Code.

2.77.090 – Mayor elected at-large

The office of the mayor shall be elected at-large under Government Code section 34900.”

Section 3. City Council District Map. City Clerk is directed to post a copy of the adopted City Council District Map, included in this Ordinance as Attachment A, to the City’s website.

Section 4. District Boundaries. The City Clerk is directed to request the demographer provide a list of the census tracts and/or blocks for each district and to attach that list to this Ordinance as Attachment B.

Section 5. Controlling Authority. If there is a discrepancy between the adopted map in Attachment A and the list in Attachment B, the adopted map in Attachment A shall control.

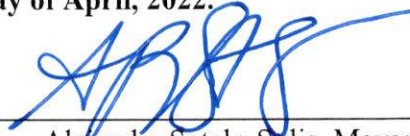
Section 6. Urgency Findings. This Ordinance should be passed immediately by a four-fifths vote under Government Code section 36934 as an “Urgency Ordinance” to accommodate the San Diego County Registrar of Voters’ deadline for the submission of city council district maps for the November 2022 General Municipal Election, and to preserve the public fisc, peace, and welfare by organizing timely elections.

Section 7. Transmittal to County. The City Clerk is directed to provide a signed original of this Ordinance to the San Diego County Registrar of Voters.

Section 8. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

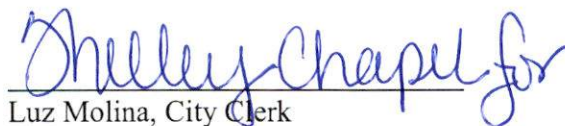
Section 9. Effective Date. This Urgency Ordinance shall take effect immediately after its passage and adoption pursuant to California Government Code Section 36937; it or a summary of it shall be published once, with the names of the members of the City Council voting for and against the same in the Star News, a newspaper of general circulation published in the County of San Diego, California.

PASSED and ADOPTED this 12th day of April, 2022.



Alejandra Sotelo-Solis, Mayor

ATTEST:



Luz Molina, City Clerk

APPROVED AS TO FORM:



Charles E. Bell, Jr., City Attorney

Passed and adopted by the Council of the City of National City, California, on April 12, 2022 by the following vote, to-wit:

Ayes: Sotelo-Solis, Rios, Bush, Rodriguez

Nays: Morrison

Absent: None.

Abstain: None.

AUTHENTICATED BY: Alejandra Sotelo-Solis
Mayor of the City of National City, California



Luz Molina
City Clerk of the City of National City, California

By: Shelley Chapel
Deputy City Clerk

I HEREBY CERTIFY that the foregoing Ordinance was not finally adopted until seven calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on March 21, 2022 and on April 12, 2022.

I FURTHER CERTIFY THAT said Ordinance was read in full prior to its final passage or that the reading of said Ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said Ordinance.

I FURTHER CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. 2022-2500 of the City Council of the City of National City, passed and adopted by the Council of said City on April 12, 2022.

Shelley Chapel for
City Clerk of the City of National City, California

By: Shelley Chapel
Deputy City Clerk