

ORDINANCE NO. 06-19

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ORANGE AMENDING TITLE 2
OF THE ORANGE MUNICIPAL CODE BY
ADDING CHAPTER 2.02 TO ESTABLISH A BY-
DISTRICT ELECTION SYSTEM FOR CITY
COUNCIL MEMBERS IN SIX COUNCIL
DISTRICTS WITH A SEPARATELY ELECTED
MAYOR PURSUANT TO CALIFORNIA
ELECTIONS CODE § 10010 & CALIFORNIA
GOVERNMENT CODE §§ 34871(c) & 34886.**

WHEREAS, the City of Orange (“City”) is a general law city, duly organized under the Constitution and laws of the State of California; and

WHEREAS, four members of the Orange City Council are currently elected in at-large elections, in which each City Council Member is elected by all registered voters of the entire City, with the Mayor separately elected by all registered voters of the entire City; and

WHEREAS, each City Council Member serves a four-year term; and

WHEREAS, at the March 2, 1976 General Municipal Election, the voters of the City of Orange changed the City’s electoral system to thereafter directly elect the Mayor and also determined that the Mayor shall serve a two-year term pursuant to California Government Code Sections 34871 and 34900 et seq.; and

WHEREAS, the California Voting Rights Act of 2001 (Elections Code §§14025-14032) (“CVRA”) provides that its purpose is “to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution”; and

WHEREAS, the City of Orange believes that its current electoral system is consistent with Section 7 of Article I and Section 2 of Article II of the California Constitution, and has resulted in the election of members of a protected class as defined in the CVRA for many years; and

WHEREAS, the City of Orange also believes that a district-based electoral system can also be consistent with Section 7 of Article I and Section 2 of Article II of the California Constitution; and

WHEREAS, the CVRA applies to jurisdictions that use an at-large method of election; and

WHEREAS, the CVRA manifests a preference for a district-based electoral system; and

WHEREAS, California Government Code Section 34886 authorizes the legislative body of a city to adopt an ordinance, without voter approval, to change its method of election from "at-large" to "district-based" "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

WHEREAS, California Government Code section 34886, as amended effective January 1, 2017, provides:

Notwithstanding Section 34871 or any other law, the legislative body of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in subdivisions (a) and (c) of Section 34871, without being required to submit the ordinance to the voters for approval. An ordinance adopted pursuant to this section shall include a declaration that the change in the method of electing members of the legislative body 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

WHEREAS, California Government Code section 34871(c) provides for the election of members of the legislative body of a city by districts in six districts, with a directly elected mayor; 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 Orange made by this Ordinance is to continue to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Section 14031 of the CVRA, and to protect the City from potential liability under the CVRA; and

WHEREAS, at its regular meeting on April 23, 2019, the City Council adopted a resolution of intent, Resolution No. 11155, to establish a by-district voting system pursuant to Elections Code section 10010; and

WHEREAS, under the provisions of California Elections Code section 10010, a political subdivision that changes from an at-large method of election to a by-district method of election shall hold at least two public hearings over a period of no more than thirty days, at which the public is invited to provide input regarding the composition of the districts before drawing a draft map or maps of the proposed boundaries of the districts; and

WHEREAS, before any maps of the proposed boundaries of the districts were drawn, the City Council held public hearings on June 13, 2019, and June 26, 2019, at which time input from the public on the proposed composition of the districts was invited and heard; and

WHEREAS, at the public meeting on July 27, 2019, the City Council adopted Resolution No. 11178, invited the public to submit proposed districting maps, and instructed its demographic consultant to develop districting map options in accordance with the criteria adopted by the Council in that resolution, to wit:

1. Districts equal in population as specified by law
2. No racial gerrymandering
3. No denial or abridgement of the right to vote based on race or color
4. Consideration of Communities of Interest
5. Consideration of compactness, where practicable
6. Districts of contiguous territory, to the extent practicable, including that a district shall not be determined to be non-contiguous on the sole basis that its parts are connected through unincorporated territory within the boundaries of the City
7. Consideration of topography and geography
8. Use of whole census blocks; and

WHEREAS, on August 20, 2019, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, 17 draft maps proposed by members of the public, and five draft maps prepared by the City's demographic consultant; and

WHEREAS, the potential sequence of elections in the districts represented in each map was also simultaneously published for each draft plan; and

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on August 27, 2019 at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, on August 27, 2019 the City Council selected three focus maps for further revision and consideration by the public; and

WHEREAS, the City received 13 amended maps based on the focus maps, and on September 3, 2019, amended maps were published (the potential sequence of elections in the amended maps remained the same as in the base focus map of each amended map); and

WHEREAS, as required by California Elections Code section 10010, the City held a fifth public hearing on September 10, 2019, at which the public was again invited to provide input regarding the content of the draft maps and the potential sequence of elections, and at which the City Council further narrowed the focus maps to one, and the public was again invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, the City received four amended maps based on the focus map and one based on Map 122, and on October 15, 2019, all amended maps were published along with the potential sequence of elections in the amended maps; and

WHEREAS, on October 22, 2019, the City held a sixth public hearing at which the public was again invited to provide input regarding the content of the draft maps and the sequence of elections, including the map attached to and made a part of this Ordinance; and

WHEREAS, the City has complied with all requirements of California Elections Code section 10010; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an Ordinance providing for the election of the members of the City Council of the City of Orange by-district in six single-member districts, retaining a separately elected office of Mayor.

NOW, THEREFORE, the City Council of the City of Orange does ordain as follows:

SECTION ONE:

Title 2 of the Orange Municipal Code is hereby amended by adding Chapter 2.02, entitled City Council – Composition, Elections and Term of Office, which shall read as follows:

Chapter 2.02 CITY COUNCIL - COMPOSITION, ELECTIONS AND TERM OF OFFICE

2.02.010. Composition of the City Council

Pursuant to California Government Code section 34871(c), the City Council shall be composed of six members and a separately elected Mayor.

2.02.020. By-District Electoral System for Six City Council Members.

Pursuant to California Government Code sections 34886 and 34871(c), Council Members shall be elected by-districts in six (6) single-member districts, and the Mayor will be directly elected by the voters of the City as follows:

A. Beginning with the general municipal election in November 2020, Council Members (except the Mayor) shall be elected in the electoral districts reflected on the map contained in Exhibit “A” attached hereto, which is incorporated herein by this reference and made a part of this Ordinance, and as subsequently reapportioned as provided by State law. Elections shall take place on a by-district basis 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, except for the Mayor, who shall be directly elected by the voters of the City.

B. The Council Member elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must live and be a registered voter in the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code section 34882 and Elections Code section 10227. Termination of residency in a district by a Council Member shall create an immediate vacancy for that council district unless a substitute residence within the district is established within 30 days after the termination of residency.

C. Notwithstanding any other provision of this section, each of the councilmembers in office at the time this Section takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Vacancies in councilmember offices elected at-large may be filled from the City at-large.

At the end of the term of each councilmember elected at-large, that member's successor shall be elected on a by-district basis in the districts established in Subsection A and the map contained in Exhibit "A", as subsequently reapportioned as provided by State law.

2.02.030. Rotation of Elections in the Districts and Term of Office

A. Councilmembers shall be elected in Council Districts 1, 2, 3, and 5 beginning at the General Municipal Election in November 2020, and every four years thereafter, except as provided in Subdivision (B).

B. The City Council shall, on a one-time basis only and prior to the first day for circulating nomination papers for the General Municipal Election in November 2020, designate the candidate elected from one of Council Districts 1, 3, and 5, to serve a two-year term. At the October 22, 2019 City Council meeting District 1 was randomly selected to serve the two year term on a one time basis in the November 2020 General Municipal Election.

C. Councilmembers shall be elected in Council Districts 4, 6, and District 1, designated for a two-year term as provided in subdivision (B), beginning at the General Municipal Election in November 2022, and every four years thereafter.

D. Except as provided in Subdivision (B) and elections to fill a vacancy, as stated below, each member of the City Council elected at the general municipal election, other than the Mayor, shall be elected to serve a four-year term until his or her successor is qualified.

E. A vacancy in a Council Member office elected by-district shall be filled by a person qualified to hold the office, who is a resident of the district in accordance with Government Code section 36512(b).

F. The Mayor shall be directly elected by the voters of the City and shall serve a two-year term until her or his successor is qualified. A vacancy in the office of Mayor shall be filled pursuant to Government Code section 34902(a), and must be a resident of the City.

SECTION TWO:

If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries adopted in this Ordinance 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 Manager shall consult with the 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 THREE:

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

The City Council hereby declares that it would have passed and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION FOUR:

The City Council finds that the proposed amendments to the Orange Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION FIVE:

This Ordinance was introduced on October 22, 2019.

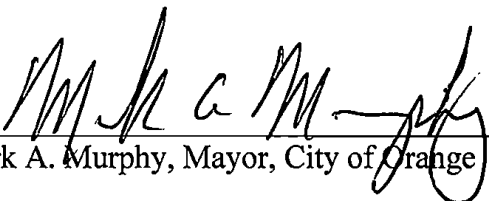
SECTION SIX:

This Ordinance shall take effect 30 days after adoption.

SECTION SEVEN:

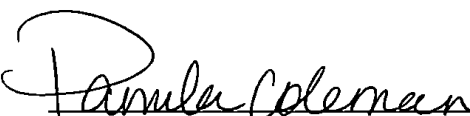
The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law.

ADOPTED this 12th day of November 2019.



Mark A. Murphy, Mayor, City of Orange

ATTEST:

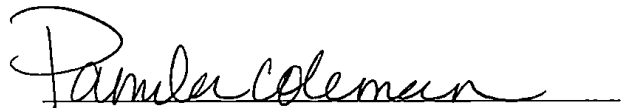


Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the adjourned regular meeting of the City Council held on the 22nd day of October 2019, and thereafter at the regular meeting of said City Council duly held on the 12th day of November 2019, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Alvarez, Murphy, Nichols, Monaco
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


Pamela Coleman, City Clerk, City of Orange