

ORDINANCE NO. 20-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON CHANGING THE MUNICIPAL ELECTIONS WITH RESPECT TO COUNCILMEMBERS ONLY FROM AN AT-LARGE ELECTIONS TO BY-DISTRICT ELECTIONS BY ADDING SECTION 2155 (BY-DISTRICT ELECTIONS) TO CHAPTER 1.5 (GENERAL MUNICIPAL ELECTIONS) OF ARTICLE II (ADMINISTRATION) OF THE CARSON MUNICIPAL CODE ESTABLISHING DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND SCHEDULING DISTRICT ELECTIONS

WHEREAS, pursuant to City Charter Section 301, the City of Carson currently elects and is governed by four (4) City Councilmembers and a directly elected Mayor, using an at-large election system; and

WHEREAS, the California Voting Rights Act (CVRA), at California Elections Code section 14027, states: "An at-large method of election may not be imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class ... "; and

WHEREAS, the City Council has been considering and has been holding public hearings on whether to switch to By-Districts Elections in lieu of at-large elections; and

WHEREAS, to date, at least 31 Charter Cities have transitioned from at-large to by-district elections without a public vote, at least 22 by ordinance and at least 9 by court order; and

WHEREAS, the City has been sued for violating the CVRA by Kevin Shenkman and Southwest Voter Registration Project (the Lawsuit), and the lawsuit is currently pending against the City; and

WHEREAS, Kevin Shenkman and the Pico Neighborhood Association Plaintiffs recently (on July 9, 2020) suffered a total defeat in the *Pico Neighborhood Association v. City of Santa Monica* Case in a published opinion which was a seminal case that the City was following, and this means that the City is not legally obligated to switch to by-districts elections, and if it does so it is doing so on its own volition and not because of the Lawsuit; and

WHEREAS, despite the total victory for Santa Monica which translates into a victory for the City of Carson, the City Council desires to voluntarily maximize the goals of the CVRA and the City's goals of equality, diversity and inclusion, the City Council has determined that it is in the best interest of the City to transition from its current at-large election system to a by-district election system even though it is not legally required to do so and the newly published opinion of the *Pico Neighborhood Association v. City of Santa Monica* Case supports the City's position; and

WHEREAS, Carson enjoys a diverse demographic blend of several racial and ethnic groups – e.g. Latino, African-American, non-Hispanic white, Asian-American and Pacific Islander and experiences same with respect to its elected officials; and

WHEREAS, pursuant to California Elections Code Section 10010, the City has held several public meetings, including in each region of the city, at which the public's input on district maps was invited, and each map was scrutinized; and

WHEREAS, the City retained expert demographic firms to assist the City with developing draft electoral district maps and gathering input from residents on the district boundaries of possible maps; and

WHEREAS, the City held three noticed public hearings during the initial districting process, prior to the drafting of preliminary Council district maps by City retained demographers, at which the public was invited to provide input regarding the composition of Council districts, those noticed public hearings being held on May 21, 2019, June 13, 2019 and June 18, 2019; and

WHEREAS, subsequent to the drafting of preliminary Council district maps by City retained demographers, the City held multiple noticed public hearings on such Council district maps, with the maps being made available to the public no less than seven days before maps were considered at public hearings, noticed public hearings being held on August 17, 2019 and September 17, 2019; and

WHEREAS, multiple draft Council district maps considered at public hearings by the Council and the public have been published online on the City of Carson's website for public review; and

WHEREAS, the September 19, 2019 public hearing discussed election sequencing, and on October 1, 2019 and October 15, 2019 election sequencing was also discussed at public meetings; and

WHEREAS, on November 19, 2019, at a duly noticed public hearing, the City Council considered a draft version of a Council district map (referred to herein as "Draft 2 District Map"), such map being made available to the public through publication no less than seven days before that November 19, 2019 public hearing; and

WHEREAS, after the November 19, 2019 public hearing, the Draft 2 District Map was revised to create Draft 2, Version 2 District Map (referred to herein as "Final District Map"), attached hereto as Exhibit "A" and incorporated herein by reference, and the Final District Map was published on the City's website and made available to the public on January 10, 2020, and has been available to the public for no less than 7 days before July 21, 2020, the date when the Final District Map was included within this Ordinance provided for consideration by the City Council to be introduced for first reading at a City Council meeting; and

WHEREAS, On July 21, 2020, the City Council introduced, read by title, and waived further reading of this Ordinance which includes a map (see attached Exhibit "A") with four council districts that are population balanced and based on communities of interest and other Constitutional factors as set forth in Elections Code section 26120 and other applicable law; and

WHEREAS, California Government Code section 34886 permits the City Council to change the City's method of election by ordinance, with certain formalities, to a by-district system in which each Councilmember, other than the directly elected Mayor, is elected only by the voters in the electoral district in which the Councilmember resides; and

WHEREAS, pursuant to California Government Code section 34886, it is declared that the purpose of the change in the method of electing members of the City Council of the City of Carson made by this Ordinance is to implement the guarantees of Article I, Section 7 and Article II, Section 2 of the California Constitution, as set forth in the California Voting Rights Act (California Elections Code sections 14025 through 14032); 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 Carson by-district in four single-member districts, with the Mayor directly elected, as reflected in Exhibit A to this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference as material findings in support of this Ordinance.

SECTION 2. By-District Elections. Section 2155 (By-District Elections) is hereby added to Chapter 1.5 (General Municipal Elections) of Article II (Administration) of the City of Carson Municipal Code to read as follows:

"2155 By-District Elections.

A. By-District Elections. Pursuant to California Government Code section 34886, all members of the City Council of the City of Carson, other than the Mayor, shall be elected by-district in four (4) single-member districts.

1. All members of the City Council shall be elected in the electoral districts established by subsection B of this Section and as subsequently reapportioned pursuant to State law. All City Council elections shall take place "by district" as that term is defined in California Government Code section 34871, meaning each of the five (5) Councilmembers, other than the directly elected Mayor, shall be elected from each district, by the voters of that district alone.

2. Any Councilmember elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued.

3. Termination of residency in a district by a Councilmember shall create a vacancy for that City Council district unless a substitute residence within the district is immediately declared and established within thirty (30) days after the termination of residency.

4. Notwithstanding any other provision of this Section, all Councilmembers in office at the time this Section takes effect shall continue in office until the expiration of the at-large term to which they were elected.

B. City Council Districts and District Elections. All Councilmembers, other than the directly elected Mayor, shall be elected on a by-district basis from the Council districts shown and numbered on the map attached as Exhibit A, a copy of which shall be on file in the City Clerk's office. In November, 2020, and every four years thereafter, the following two City Council districts shall be elected by-district: District 1 and District 3. In November, 2022, and every four years thereafter, the following two City Council districts shall be elected by-district: District 2 and District 4.

C. Amendment of District Boundaries. Pursuant to California Elections Code section 21620, as it may be amended from time to time, the City Council shall adjust the boundaries of any or all of the districts following each federal decennial census or, if authorized by the City Charter, following each federal mid-decade census, to ensure that the districts are in compliance with all applicable provisions of law.”

SECTION 3. 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 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 adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 4. CEQA. Based upon the whole of the record before it, the City Council hereby finds that a transition from at-large to by-district elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) pursuant to State CEQA Guidelines (Cal. Code Regs., tit.14, § 15000 et seq.) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of this Ordinance is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061 (b)(3); 15378(b)(5).) In the event adoption of this Ordinance does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) Further, none of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the Los Angeles County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Ordinance.

SECTION 5. EFFECTIVE DATE. Pursuant to Government Code section 36937(a), this Ordinance shall become effective immediately following its adoption.

SECTION 6. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance and shall cause the same to be posted and codified in the manner required by law.

SECTION 7. ENTRY OF NOTE INTO CHARTER. Within thirty (30) days following the Effective Date of this Ordinance, the City Clerk is hereby directed to enter a notation that elements of the City Charter that are consistent with an "at-large method of election" as the term is defined by California Elections Code section 14026(a)(3), are superseded by preemptive State law, i.e., the CVRA, pursuant to the court decision of *Jauregui v. City of Palmdale*, (2014) 226 Cal.App.4th 781. To the extent that the City Charter conflict with the provisions of this Ordinance, this Ordinance shall govern.

PASSED AND ADOPTED on the ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ALBERT ROBLES, Mayor

ATTEST:

DONESIA GAUSE, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney