

ORDINANCE O2020-\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, ESTABLISHING DISTRICT-BASED ELECTIONS FOR COUNCILMEMBERS BY AMENDING NAPA MUNICIPAL CODE TITLE 1 TO ADD A NEW CHAPTER 1.10 (“DISTRICT-BASED ELECTIONS”), AND APPROVING THE DISTRICT BOUNDARY MAP AND SEQUENCE OF ELECTIONS FOR COUNCILMEMBERS

WHEREAS, the City of Napa (“City”) is a California Charter City and municipal corporation, duly organized under the Constitution and laws of the State of California, and exercising its authority pursuant to California Constitution Article XI, Sections 5 and 7; and

WHEREAS, the City Council (“Council”) is the governing body of the City, and the Council is comprised of five members, including the directly elected Mayor and four Councilmembers; and

WHEREAS, prior to the adoption of this Ordinance, each member of Council (the Mayor and each of the four Councilmembers) was elected in at-large elections, in which each member of Council was elected by the registered voters of the entire City; and

WHEREAS, the Mayor and each Councilmember each serve a four-year term; and

WHEREAS, on January 2, 2020, the City received a certified letter from Scott J. Rafferty (an attorney representing the Napa County Progressive Alliance), asserting that the City’s at-large Councilmember electoral system violates the California Voting Rights Act (“CVRA”) because it 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 of the rights of voters who are members of a protected class, including some supporting evidence for that assertion, and arguing that litigation will be avoided if the City transitions from an at-large to a district-based system for electing its four Councilmembers (the CVRA is codified at California Elections Code Sections 14025 – 14032); and

WHEREAS, a violation of the CVRA may be established if it is shown that “racially polarized voting” occurs in elections in which the voters of the City vote; and “racially polarized voting” means voting in which there is a difference between: (a) the choice of candidates or other electoral choices that are preferred by voters in a protected class, and (b) the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (see California Elections Code Sections 14026(e) and 14028); and

WHEREAS, the CVRA applies to jurisdictions that use an at-large method of election, and the CVRA manifests a preference for a district-based electoral system; and

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WHEREAS, as a charter city, the City has broad constitutional “home rule” authority (under California Constitution Article XI, Section 5, as implemented by City Charter Section 4), which generally includes the authority to adopt ordinances related to the conduct of elections; however, that authority is subject to limitations set forth in the City Charter, and it is subject to limitations established by state statutes that are narrowly drawn to address a “statewide concern”; and

WHEREAS, the CVRA is a matter of statewide concern in that it implements the equal protection and voting rights provisions of California Constitution Article I, Section 7, and Article II, Section 2; and the CVRA is narrowly drawn and reasonably related to elimination of dilution of the vote of protected classes when found to occur in an at-large electoral system (see Jauregui v. City of Palmdale (2014) 226 Cal.App.4<sup>th</sup> 781, 798-802); and

WHEREAS, based on the holding in the Palmdale case, notwithstanding the City’s home rule authority to adopt ordinances related to the conduct of elections, the City is not authorized to exercise authority that is in conflict with the CVRA (e.g., maintain at-large elections that dilute the voting rights of a protected class); and

WHEREAS, California Government Code Section 34886 provides that, notwithstanding any other law, the City Council may adopt an ordinance that requires Councilmembers to be elected in a district-based election system, without being required to submit the ordinance to the voters for approval; and

WHEREAS, based on the holding in the Palmdale case, and California Government Code Section 34886, the City Council is authorized to adopt an ordinance to establish a district-based election system for Councilmembers; and

WHEREAS, pursuant to California Government Code section 34886, it is declared the change in the method of electing Councilmembers made by this Ordinance is to continue to implement the guarantees of California Constitution Article I, Section 7, and Article II, Section 2, as set forth in Section 14031 of the CVRA, and to protect the City from potential liability under the CVRA; and

WHEREAS, the City is committed to diversity and inclusion with respect to its elections and the Council has determined that the public interest is better served by initiating a process for transition to a district-based election system and thereby avoiding the high costs associated with defending a lawsuit under the CVRA; and

WHEREAS, at its regular meeting on February 11, 2020, the City Council adopted a resolution (R2020-017), outlining its intention to transition from at-large to district-based elections for the four Councilmembers, pursuant to Elections Code Section 10010; and

WHEREAS, at its regular meetings on February 25, 2020, and March 4, 2020, consistent with the provisions of California Elections Code Section 10010, the City Council held two public hearings over a period of no more than thirty days, at which the

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public was 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, on March 8, 2020, the City conducted two Community Workshops at which members of the public were invited to prepare proposed district boundary maps, and the City invited additional public input through the City's webpage dedicated to the transition from at-large to district-based elections of Councilmembers; and

WHEREAS, the City instructed its demographic consultant to consider input and proposed district boundary maps prepared by the public, and prepare draft district boundary map options in accordance with the criteria provided by the Council during the public hearings on February 25 and March 4, 2020, and in accordance with Elections Code Section 21621; and

WHEREAS, on March 10, 2020, consistent with the provisions of California Elections Code section 10010, the City published and made available to the public on the City's webpage, four draft district boundary maps along with the proposed sequence of elections for the districts represented in each map; and

WHEREAS, due to the unprecedented impacts of the Coronavirus (COVID-19), as documented in the City Manager's Proclamation of Local Emergency (P2020-001) on March 15, 2020, and the City Council's resolution ratifying and continuing the Local Emergency (R2020-037) on March 16, 2020, the City was forced to cancel the public hearings on March 17 and April 7, 2020, initially scheduled to consider the draft district boundary maps and the proposed sequence of elections; and

WHEREAS, as a result of COVID-19, the California Governor issued Executive Order N-34-20 on March 20, 2020, and issued Executive Order N-48-20 on April 9, 2020, by which the Governor suspended the timeframes set forth in Elections Code Section 10010; and

WHEREAS, at its regular meeting on April 21, 2020, the City Council held a public hearing at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections, and a proposed ordinance establishing district based elections, as required by California Elections Code section 10010; and

WHEREAS, at its regular meeting on April 28, 2020, the City Council held a public hearing at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections, and a proposed ordinance establishing district based elections, as required by California Elections Code section 10010; and

WHEREAS, at its regular meeting on May 5, 2020, the City Council held a public hearing at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections, and a proposed ordinance establishing district based elections, as required by California Elections Code section 10010; and

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WHEREAS, the City has complied with all requirements of California Elections Code Section 10010, including: (a) the City Council adopted a resolution of intention within 45 days of receipt of a notice (per Subsection 10010(e)(3)(A)); (b) the City Council conducted two public hearings over a period of no more than 30 days before drawing a draft map (per Subsection 10010(a)(1)); (c) the City Council conducted two additional public hearings over a period of no more than 45 days with draft maps published at least seven days before the hearing (per Subsection 10010(a)(2)); and (d) the City Council conducted a public hearing at which it voted to approve this Ordinance establishing district-based elections for four Councilmembers; and

WHEREAS, this Ordinance is intended to provide for the district-based election of four Councilmembers of the City of Napa by-district in four single-member districts, retaining a directly elected office of Mayor, pursuant to California Government Code section 34886; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Napa as follows:

**SECTION 1. Findings and determinations.** The City Council hereby finds and determines that the facts set forth in the recitals to this Ordinance are true and correct, and establish the factual bases for the City Council's adoption of this Ordinance.

**SECTION 2. Adoption.** Napa Municipal Code Chapter 1.10 is hereby adopted as set forth in Exhibit "A," attached hereto and incorporated herein by reference. Accordingly, the City Council hereby authorizes and directs the codifier to: (A) amend the Table of Contents for Napa Municipal Code Title 1 to add the reference to Chapter 1.10 "District-Based Elections"; and (B) create a Table of Contents for Napa Municipal Code Chapter 1.10 to identify each of the Sections of Chapter 1.10, as set forth in this Ordinance.

**SECTION 3. District Boundary Map.** The City Council hereby approves the District Boundary Map for the District-Based election system for four Councilmembers, identifying the district boundaries for each of the four districts, as set forth on Exhibit "A," attached hereto and incorporated herein by reference. For the purpose of the introduction of this Ordinance, the District Boundary Map shall be one of the maps that has been published on the City's webpage (<https://www.cityofnapa.org/902/MAPS>), as selected by the City Council during the public hearing on April 21, 2020. As a part of the introduction of this Ordinance, Exhibit "A" and this Section 3 shall be updated to document the District Boundary Map, and the sequence of elections for Councilmembers in each of the four districts, as selected by the City Council.

**SECTION 4. Implementation.** If necessary to facilitate the implementation of this Ordinance, the City Council hereby authorizes the City Manager, or his or her designee,

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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 5. CEQA.** The City Council finds that the actions authorized by this Ordinance are not subject to the requirements of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3) since the actions will not result in a direct or reasonably foreseeable indirect physical change in the environment.

**SECTION 6: Severability.** If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, 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 sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 7: Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a California charter city and municipal corporation

MAYOR: \_\_\_\_\_

ATTEST: \_\_\_\_\_

CITY CLERK OF THE CITY OF NAPA

**ATTACHMENT 5**

STATE OF CALIFORNIA }  
COUNTY OF NAPA } SS:  
CITY OF NAPA

I, Tiffany Carranza, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 21<sup>st</sup> of April, 2020, and had its second reading and was adopted and passed during the public meeting of the City Council on the 5<sup>th</sup> day of May, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Tiffany Carranza  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Michael W. Barrett  
City Attorney

**EXHIBIT A**

**CHAPTER 1.10**

**DISTRICT-BASED ELECTIONS**

**1.10.010 District-Based Elections for Four Councilmembers**

- A. Each of the four Councilmembers, as defined by Section 2.04.010(A), shall be elected in a district-based election system, by which Councilmembers are elected by-districts in four single-member districts. The Mayor shall be elected on a citywide basis, as described in Section 1.10.040. (See California Government Code Sections 34886 and 34871(c); and California Elections Code Section 14026(b).)
- B. The boundaries for the geographical area making up each of the four Districts shall be as defined by the District Boundary Map approved by ordinance of the City Council, on file with the City Clerk. A copy of the District Boundary Map shall be published on the internet, on the City's webpage.
- C. District-based elections for each of the four Councilmembers shall be conducted in accordance with California Government Code Sections 34871 and 34882, meaning: (1) a person is not eligible to hold office as a Councilmember unless he or she resides in, and is a registered voter in, the District, beginning at the time nomination papers are issued to candidates as provided by California Elections Code Section 10227; and (2) one Councilmember shall be elected for each District by the voters of that District alone.

**1.10.020 Sequence of Elections for District-Based Elections**

- A. The district-based election system established by this chapter shall be first implemented for the general municipal election in November 2020. Notwithstanding any other provision of this chapter, for each Councilmember in office at the time this chapter takes effect: (1) those Councilmembers shall continue in office until the expiration of the full term to which she was elected and until her successor is qualified, and (2) a vacancy in the office of those Councilmembers shall be determined and filled in accordance with City Charter Sections 11 and 12.
- B. Councilmembers shall be elected in Council Districts 2 and 4 at the general municipal election in November 2020, and every four years thereafter.
- C. Councilmembers shall be elected in Council Districts 1 and 3 at the general municipal election in November 2022, and every four years thereafter.

- D. The term of office for each Councilmember shall be for four years and until his or her successor is qualified.

**1.10.030 Vacancies for the Office of Councilmember**

- A. In addition to the criteria for a vacancy of any elective office (which includes the office of each Councilmember) as set forth in City Charter Section 11, a vacancy of the office of a Councilmember shall exist if: (1) the Councilmember does not reside in the District to which he or she was elected; and (2) the Councilmember fails to reestablish residency in the District within thirty days.
- B. A vacancy in the office of a Councilmember shall be filled in accordance with the process set forth in City Charter Section 12. The vacancy shall be filled by a person who resides in, and is a registered voter in, the District.

**1.10.040 Directly Elected Mayor**

The Mayor shall be directly elected on a citywide basis by the voters of the City. The term of office for the Mayor shall be for four years and until his or her successor is qualified.