

CITY OF OJAI

ORDINANCE NO. 889

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF OJAI, CALIFORNIA, ADDING A NEW CHAPTER 6
("ELECTIONS") OF TITLE 2 ("ADMINISTRATION") TO
THE OJAI MUNICIPAL CODE TO CHANGE THE CITY'S
ELECTORAL SYSTEM FROM AT-LARGE TO BY-
DISTRICT ELECTIONS WITH RESPECT TO ELECTING
MEMBERS OF THE CITY COUNCIL, ESTABLISHING
DISTRICT BOUNDARIES, AND SEQUENCING OF
ELECTIONS WITHIN THE DISTRICTS AND DECLARING
THE URGENCY THEREOF IN ACCORDANCE WITH
GOVERNMENT CODE SECTIONS 36934 AND 36937**

WHEREAS, the Mayor and four members of the City Council of the City of Ojai ("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, Ojai has had a directly elected Mayor with a two-year term since 2016, when a ballot measure approved by a majority of the City's voters in November 2014 took effect creating a directly elected at-large Mayor, a system recently reconfirmed by the voters at the November 2018 election; 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 via certified mail on September 4, 2018, from Kevin I. Shenkman, Esq., on behalf of his client Southwest Voter Registration Education Project, containing unsubstantiated allegations that the City's at-large electoral system prevents members of Ojai's Latino 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, despite Mr. Shenkman's claims, the City has a history of inclusionary voting and supports the rights of all members of the City of Ojai community, including minority community members to elect the candidate of their choice; and

WHEREAS, the City denies that its at-large election system violates the CVRA or any other provision of law and asserts that Ojai's election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its Mayoral and City Council elections; and

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WHEREAS, although the demand letter cited above lacked any evidence of racially polarized voting, the City Council has concluded, with the advice of the City Attorney, that the public interest would be better served by transitioning to a district-based electoral system under the “safe harbor” provisions of Elections Code Section 10010 because of (1) the extraordinary cost to defend against a CVRA lawsuit, (2) no City has ever prevailed to date in defending a CVRA lawsuit challenging at-large electoral systems, (3) the risk of losing such a lawsuit could result in a court order for the City to pay plaintiff’s attorney’s fees, and (4) reimbursable costs and plaintiff’s attorneys’ fees, if required to be paid, are capped at a maximum of \$30,000 under the “safe harbor” provisions; and

WHEREAS, at its regular meeting on October 16, 2018, the City Council adopted Resolution No. 18-51 declaring the Council’s intent to consider whether to transition from an at-large to district-based electoral system, thereby initiating the “safe harbor” period; and

WHEREAS, Elections Code Section 10010(a)(1), provides that before any map or maps of the boundaries for the proposed districts are drawn, the City must conduct two (2) Public Hearings over a period of no more than thirty (30) days from the adoption of the resolution of intention, at which time the public is invited to provide input regarding the composition of the districts; and

WHEREAS, the first public hearing took place on October 23, 2018 and the second public hearing on November 13, 2018, during which City staff informed the public about the CVRA, the difference between at-large and district-based elections, and the “safe harbor” process under Elections Code Section 10010, and heard from the community regarding what factors to consider in creating district boundaries; and

WHEREAS, Elections Code Section 10010(a)(2), provides that the City Council shall also hold at least two (2) additional Public Hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and

WHEREAS, the third public hearing took place on November 27, 2018 and the fourth public hearing took place on December 11, 2018, during which the City Council received public comment on the boundaries of draft district-based election maps; and

WHEREAS, if the CVRA is amended in a manner which qualifies the City to return to at-large elections, the City Council declares its desire for appropriate actions to be taken; and

WHEREAS, Government Code Section 36937, subdivision (b), authorizes the adoption of ordinances that take effect immediately if they relate to elections, provided such ordinances are approved by a majority vote of the City Council

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**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES
ORDAIN AS FOLLOWS:**

SECTION 1. Recitals. The above set forth Recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Text Amendment. Ojai Municipal Code Chapter 6 (“Elections”) of Title 2 (“Administration”) is hereby added to read as follows:

“Chapter 6 ELECTIONS

Article 1. City Council Members Elected By-District

Section 2-6.101. Purpose

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

Section 2-6.102. By-District Elections

Beginning with the municipal election in November 2020, the four members of the City Council shall be elected in the electoral districts established by Section 2-6.103 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. Each member of the City Council shall serve a four-year term.

Section 2-6.103. District Maps

Members of the City Council shall be elected on a by-district basis from the four (4) City Council districts hereby established. The boundaries and identifying number of each district shall be as described on the City Council District Map attached hereto as “Exhibit A” and incorporated by reference.

Section 2-6.104. Election Sequence

Commencing with the general municipal election in November 2020 and every four years thereafter the voters in District 4 shall elect a member of the City Council by-district for a full four (4) year term. At the general municipal election in November 2022 and every four years thereafter, the voters in Districts 1, 2, and 3 shall elect members of the City Council by-district for full four (4) year terms.

Section 2-6.105. City Council Residency

Each member of the City Council elected by-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

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issued pursuant to Government Code Section 34882 and Elections Code Section 10227. It is the intent of the City Council that no term of any member of the City Council that commenced on the same day as or before the effective date of this ordinance shall be affected by this Chapter. Any sitting City Council member elected at-large may reside anywhere within the City during the pendency of his or her term in effect on the effective date of this ordinance.

Section 2-6.106. Voter Residency

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 candidate is to be elected.

Section 2-6.107. 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 (30) days after the termination of residency. In the event that a vacancy is created as a result of termination of residency as provided herein, such vacancy shall be filled pursuant to the provisions of the Elections Code.

Section 2-6.108. Technical Amendments

If necessary to facilitate the implementation of this Article, 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.

Article 2. Mayor Elected At-Large

Section 2-6.201. Mayor Elected At-Large

The office of Mayor of the City of Ojai is a separate office with a term of two (2) years, which shall continue to be elected at-large, as approved by a majority of the City's electorate in November 2014 by adoption of Measures A and B, under the provisions of Government Code section 34900. The at-large electoral system for the Mayor may only be changed by a vote of the City's electorate.

SECTION 3. Urgency Findings. The City Council finds this Ordinance should take effect immediately as an "Urgency Ordinance" as it is an ordinance relating to the conduct of the City's elections pursuant to Government Code Section 36937, subdivision (a).

SECTION 4. 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. The City Council declares that it would have adopted this Ordinance,

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and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 5. Certification. Upon adoption of this Urgency Ordinance, the Mayor shall sign and the City Clerk shall attest to the passage of this Urgency Ordinance. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 6. Effective Date. This Urgency Ordinance shall take effect immediately after its passage and adoption pursuant to California Government Code Section 36937, shall supersede any conflicting provision of any City of Ojai ordinance, and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

CITY OF OJAI, CALIFORNIA

By

John F. Johnston, Mayor

1-14-19

ATTEST:

Gail Davis
Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

Matthew T. Summers
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

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I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Urgency Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on December 11, 2018, and adopted by the following vote:

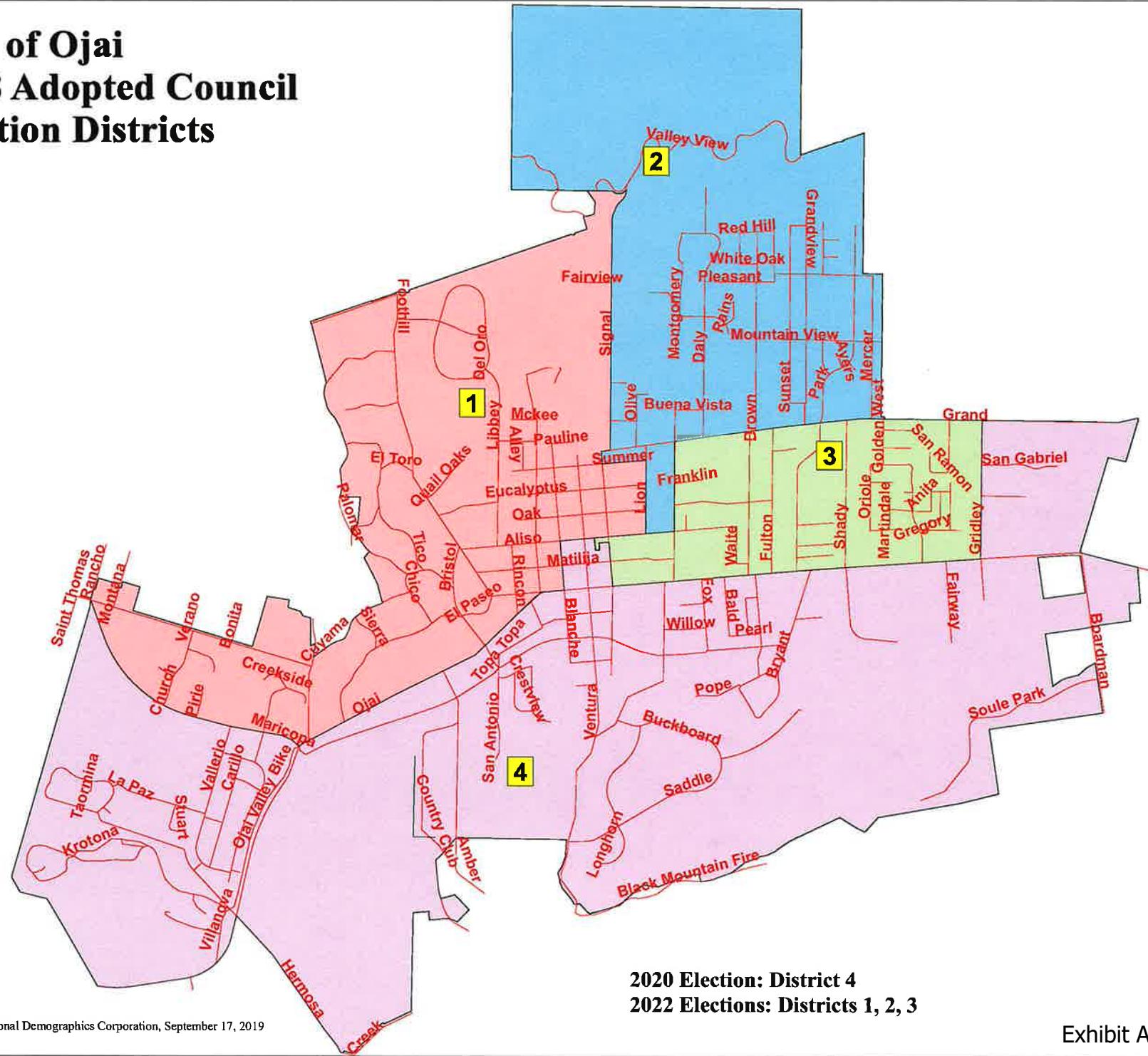
AYES: Blatz, Francina, Haney, Johnston
NOES: Weirick
ABSTAIN: None
ABSENT: None



Gail Davis
Deputy City Clerk for the City of Ojai

City of Ojai

2018 Adopted Council Election Districts



City of Ojai - Draft Map 101b

District		1	2	3	4	Total
<u>Ideal</u>	Total Pop	1,919	1,863	1,817	1,862	7,461
1,865	Deviation from ideal	54	-2	-48	-3	102
	% Deviation	2.90%	-0.11%	-2.57%	-0.16%	5.47%
Total Pop	% Hisp	14%	13%	28%	16%	18%
	% NH White	81%	82%	67%	78%	77%
	% NH Black	1%	0%	0%	1%	1%
	% Asian-American	3%	2%	2%	3%	3%
Citizen Voting Age Pop	Total	1,464	1,541	1,254	1,390	5,650
	% Hisp	11%	12%	21%	8%	13%
	% NH White	84%	87%	75%	88%	84%
	% NH Black	0%	0%	0%	2%	1%
	% Asian/Pac.Isl.	4%	1%	3%	0%	2%
Voter Registration (Nov 2016)	Total	1,249	1,326	1,112	1,343	5,030
	% Latino est.	9%	12%	13%	11%	11%
	% Spanish-Surnamed	8%	11%	11%	10%	10%
	% Asian-Surnamed	1%	1%	1%	2%	1%
	% Filipino-Surnamed	1%	0%	0%	1%	0%
	% NH White est.	81%	87%	86%	79%	83%
	% NH Black	0%	0%	0%	2%	1%
Voter Turnout (Nov 2016)	Total	1,082	1,098	926	1,129	4,235
	% Latino est.	8%	10%	11%	10%	10%
	% Spanish-Surnamed	7%	9%	10%	9%	9%
	% Asian-Surnamed	1%	1%	1%	2%	1%
	% Filipino-Surnamed	1%	0%	0%	0%	0%
	% NH White est.	81%	88%	88%	80%	84%
	% NH Black	0%	0%	0%	2%	1%
Voter Turnout (Nov 2014)	Total	739	937	378	758	2,812
	% Latino est.	5%	7%	7%	7%	6%
	% Spanish-Surnamed	4%	6%	6%	6%	6%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	0%	0%	0%	0%	0%
	% NH White est.	86%	92%	92%	86%	89%
	% NH Black est.	0%	0%	0%	0%	0%
ACS Pop. Est.	Total	1,881	1,807	1,755	1,829	7,272
Age	age0-19	20%	21%	21%	20%	21%
	age20-60	43%	51%	54%	48%	49%
	age60plus	37%	29%	25%	31%	31%
Immigration	immigrants	14%	15%	15%	10%	13%
	naturalized	71%	56%	50%	43%	56%
Language spoken at home	english	84%	84%	84%	83%	84%
	spanish	8%	10%	11%	13%	10%
	asian-lang	1%	1%	2%	0%	1%
	other lang	7%	5%	4%	4%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	3%	5%	6%	6%	5%
Education (among those age 25+)	hs-grad	44%	44%	44%	49%	45%
	bachelor	27%	27%	27%	23%	26%
	graduatedegree	22%	20%	18%	18%	19%
Child in Household	child-under18	21%	24%	27%	17%	22%
Pct of Pop. Age 16+	employed	48%	55%	58%	55%	54%
Household Income	income 0-25k	19%	17%	16%	24%	19%
	income 25-50k	19%	17%	16%	15%	17%
	income 50-75k	16%	18%	20%	14%	17%
	income 75-200k	33%	33%	33%	31%	32%
	income 200k-plus	13%	15%	16%	16%	15%
Housing Stats	single family	77%	82%	86%	89%	83%
	multi-family	23%	18%	14%	11%	17%
	rented	41%	42%	42%	35%	40%
	owned	59%	58%	58%	65%	60%

Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.

Exhibit A

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