

AGENDA ITEM NO. 8.7

ORDINANCE NO. 25-2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING A DISTRICT MAP AND REQUIRING MEMBERS OF THE CITY COUNCIL TO BE ELECTED BY DISTRICT WITH AN ELECTED MAYOR CONSISTENT WITH ELECTIONS CODE SECTION 10010 AND GOVERNMENT CODE SECTION 34886

WHEREAS, the City of Elk Grove (“City”) is a general law city and currently has a “from-district” election method whereby four members of the City Council are required to reside within designated districts of the City, with voters of the entire City electing these four members of the City Council, which election method is considered an “at-large method of election” under Elections Code section 14026; and

WHEREAS, the City has an elected Mayor, pursuant to Government Code section 34902, whereby the Mayor is directly elected on a citywide basis by the voters of the entire City for a two-year term; and

WHEREAS, on July 15, 2019, the City received a letter by certified mail from the law firm of Shenkman & Hughes, P.C. asserting that the City’s at-large City Council electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation against the City if the City does not voluntarily change its at-large system of electing City Councilmembers; and

WHEREAS, Government Code section 34886 authorizes the City to adopt an ordinance to change to a by-district system without submitting the ordinance to the voters for approval; and

WHEREAS, while the City Council feels that the City’s current system of election is consistent with applicable law, including, without limitation, the California Voting Rights Act of 2001 (Elections Code sections 14025, *et seq.*) given the risk and costs of potential litigation over the City’s election method, and other considerations of the City Council, the City Council intends to transition to a by-district (district-based) method of election whereby four members of the City Council would be elected by voters of an identified district within the City alone, all in furtherance of the purposes of the California Voting Rights Act of 2001; and

WHEREAS, the City intends to retain an elected mayor, who shall remain elected on a citywide basis by the voters of the entire City for a two-year term; and

WHEREAS, at the regular meeting of August 28, 2019 the City Council adopted Resolution No. 2019-191 expressing its intent to transition to a by-district (district-based) system of election for its four City Councilmembers consistent with Elections Code section 10010; and

WHEREAS, the City retained National Demographics Corporation to provide demographer services; and

WHEREAS, the City Council held public hearings on September 9, 2019, September 25, 2019, October 9, 2019 and October 23, 2019 as required by law to consider all of the information presented by staff, National Demographics Corporation, and public testimony presented at the meetings; and

WHEREAS, on October 23, 2019 the City Council selected the map alternative identified as “City of Elk Grove – Current Districts,” depicted by the map attached to this ordinance as Exhibit A.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to approve a district map and require members of the City Council to be elected by district with an elected mayor consistent with Elections Code section 10010 and Government Code section 34886.

Section 2: Declaration

This Ordinance is adopted based upon the following 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).

Section 3: Action

The City Council hereby:

- 1) Adopts, as the City Council Member Residency Districts, the map attached hereto as Exhibit A and incorporated herein; and
- 2) Assigns numbers to the four City Council Member Residency Districts as set forth on the map attached hereto as Exhibit A; and
- 3) Confirms City Council Member elections shall be conducted “by districts” in four districts, with an elective mayor pursuant to Government Code Article 5 (commencing with Section 34900). The term "by districts" shall mean election of members of the legislative body by voters of the district alone.
- 4) Directs that City Council Members shall be elected in City Council Districts Numbers 1 and 3 beginning at the General Municipal Election in November, 2020, and every four years thereafter, as such City Council Districts may be amended from time to time; and City Council Members shall be elected from City Council Districts Numbers 2 and 4 beginning at the General Municipal Election in November 2022, and every four years thereafter, as such City Council Districts may be amended from time to time; and

- 5) Directs City staff to provide a certified copy of this Ordinance, including Exhibit A, to the Sacramento County Voter Registration and Elections Office for use in subsequent City of Elk Grove City Council Elections; and
- 6) Authorizes the City Clerk, if reasonably necessary to facilitate the implementation of this Ordinance, to make minor technical adjustments to the district map boundaries, including developing legal descriptions, so long as the adjustments 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 prior to making any such adjustments, and shall provide a written report to the City Council of any such adjustments required in the implementation of the districts as soon as reasonably practical.

Section 4: Additions to the Elk Grove Municipal Code Section 1.02.035 By District Elections and Section 1.02.045 Directly Elected Mayor

A. The City Council hereby adds Elk Grove Municipal Code Section 1.02.035 as follows:

1.02.035 By District Elections for Council Member Seats.

City Council member elections of the City of Elk Grove shall be conducted “by districts” in four districts, with an elective mayor pursuant to Government Code Article 5 (commencing with Section 34900). Council member candidates must reside within the election district they seek for office. The term “by districts” shall mean election of members of the legislative body by voters of the district alone. The initial district map shall be adopted by ordinance, and it may be amended from time to time by ordinance or resolution of the City Council.

B. The City Council hereby adds Elk Grove Municipal Code Section 1.02.045 as follows:

1.02.045 Directly Elected Mayor.

Elections for the office of the directly elected mayor shall be conducted “at-large” requiring candidates to reside within the jurisdictional boundary of the City, and the voters of the entire City elect the candidate to the office of mayor.

Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

Section 7: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 8: Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **25-2019**
INTRODUCED: October 23, 2019
ADOPTED:
EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

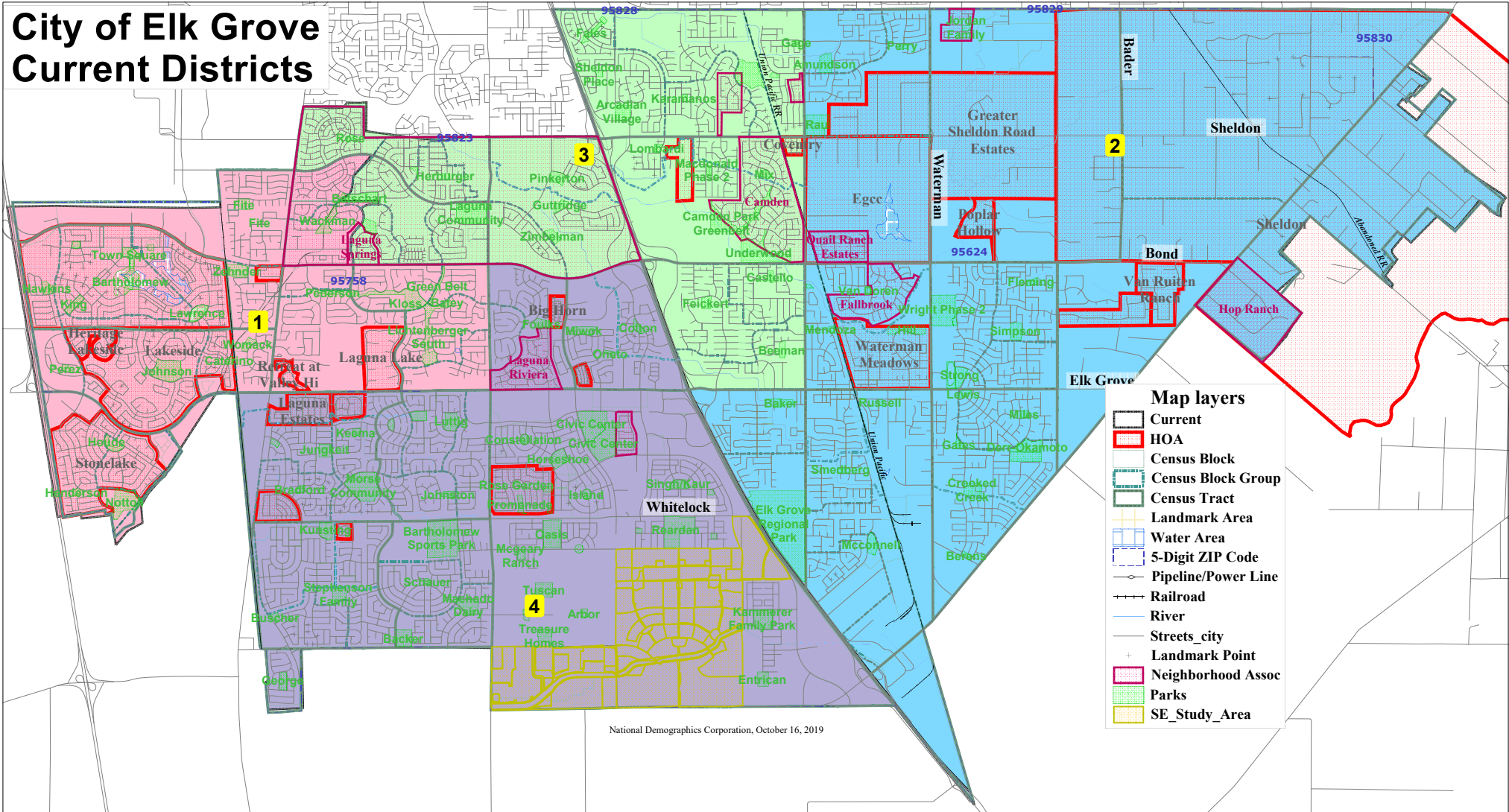
JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date Signed:_____

EXHIBIT A

City of Elk Grove Current Districts



City Council Members shall be elected by-district in City Council Districts 1 and 3 beginning at the November 3, 2020 General Municipal Election, and every four years thereafter, as such City Council Districts may be amended from time to time. City Council Members shall be elected by-district in City Council Districts 2 and 4 beginning at the November 8, 2022 General Municipal Election, and every four years thereafter, as such City Council Districts may be amended from time to time. The office of the directly elected mayor shall be elected "at-large" at the November 3, 2020 General Municipal Election, and every two years thereafter.