ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF MARINA ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS PURSUANT TO CALIFORNIA ELECTIONS CODE § 10010) & CALIFORNIA GOVERNMENT CODE §§ 34871(c) & 34886

WHEREAS, the City of Marina supports the full participation of all residents in electing members of the City Council; and

WHEREAS, in an election held on March 7, 1978, the voters in the City of Marina approved the election of a mayor and four councilmembers for a term of office of two and four years respectively commencing with the General Municipal Election to be held in 1980; and

WHEREAS, in an election held on June 2, 1998, the voters in the City of Marina approved a Home-Rule City Charter which provisions did not alter the composition of the City Council as consisting of four councilmembers and a mayor; and

WHEREAS, in an election held on November 8, 2016, the voters approved the addition to the City Charter of Section 1.04 of Article 6 to provide for the direct election of the mayor to serve a term of four years; and

WHEREAS, the City of Marina currently elects four of its City Council members using an at-large election system, with a separately elected Mayor, who is also a member of the City Council; and

WHEREAS, in the at-large election system candidates may reside in any part of the City, and each City Council member is elected by the voters of the entire City; and

WHEREAS, in a by-district election system a candidate for City Council must reside in the district which he or she wishes to represent, and only the voters of that district are entitled to vote to decide who their representative will be; and

WHEREAS, on August 28, 2019, the City received a letter from an attorney asserting the City's atlarge electoral system violated the California Voting Rights Act, and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, the letter did not contain any evidence of a violation, but the cost of defending against a claim under the California Voting Rights Act is extremely high; and

WHEREAS, Section 2.06.010 of Chapter 2 of the Marina Municipal Code provides that that the general municipal election in the City shall be held on the same date as the statewide general election in November of even-numbered years; 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

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WHEREAS, California Government Code section 34871 (c) provides for the election of members of the legislative body of a city by districts in four districts, with a separately elected mayor; and

WHEREAS, at an adjourned regular meeting on September 5, 2019, the City Council adopted a resolution of intent to transition from at-large to district-based Council member elections pursuant to Elections Code section 10010; 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 Marina made by this ordinance is 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 California Voting Rights Act; 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 September17, 2019, and October 1, 2019, at which time input from the public on the proposed district boundaries was invited and heard; and

WHEREAS, at the public hearing on October 1, 2019, the City Council instructed its demographic consultant to develop redistricting plan options in accordance with the information received on September 17, 2019 and October 1, 2019; and

WHEREAS, to facilitate participation in the submission of draft maps for consideration, two outreach events were held; the first in conjunction with the Fire Prevention Open House on October 8, 2019, and the second held at the Marina Public Library on October 16, 2019, and outreach to the public was conducted via the City's social media accounts, website, direct email, Newsflash announcement, announcements of City Council meetings and newspaper advertisements; and

WHEREAS, on October 29, 2019, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, ten draft maps for consideration by the Council, two of which were prepared by the City's demographic consultant and eight of which were prepared and submitted to the City by members of the public; and

WHEREAS, as required by California Elections Code section 10010 and as detailed hereafter, the City held at least two additional hearings within a period of no more than 45 days from October 29, 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

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on November 5, 2019, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

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WHEREAS, on November 11, 2019, consistent with the provisions of California Elections Code section 10010, the City published, and made available for release, five additional/ draft maps prepared and submitted by the City's demographer and three draft maps submitted by members of the public for consideration by the public and the City Council; and

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on November 19, 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 November 19, 2019, the City Council directed that Map 109b submitted by the City's demographer be revised and that map, as revised (Map 109c) was selected to be the single map to be provided for Council consideration for adoption on December 3, 2019; and

WHEREAS, on November 26, 2019, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, one additional/revised draft map (Map 109c) for consideration by the public and the City Council; and

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on December 3, 2019, at which the public was invited to provide input regarding the content of the map selected for consideration by the Council (Map 109c) published and made available for release on or before November 26, 2019, and on the potential sequence of elections; 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 Marina by district in four single-member districts, retaining a separately elected office of Mayor.

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

Section 1.

Chapter 2.06 of the Marina Municipal Code, entitled "Municipal Elections", is hereby amended by adding Section 2.06.020 thereof to read as follows:

"2.06.020. By-district electoral system for four City Councilmembers; Mayor separately elected.

A. Pursuant to the City Charter and California Government Code sections 34886 and 34871 (c), councilmembers shall be elected by-districts in four (4) single-member districts. As required by the City Charter, the Mayor will be separately elected by a citywide vote.

B. (1) Beginning with the general municipal election in November 2020, councilmembers shall be elected in the electoral districts whose boundaries and district numbers are reflected on the map contained in **Exhibit A** attached hereto and incorporated herein by this reference 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 elected citywide. In accordance with the general las and the City Charter, each councilmember and the Mayor, shall serve a four-year term until his or her successor has qualified.

- (2) Except as provided in subdivision (B)(3) hereof, the councilmember 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 in, 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 councilmember 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.
- (3) Notwithstanding any other provision of this section, each of the councilmembers in office at the time this Chapter 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, 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 hereto, as may subsequently reapportioned as provided by State law. A vacancy in a Councilmember office elected by-district shall be filled by a person qualified to hold the office, who is a resident of the district."

Chapter 2.06 of the Marina Municipal Code, entitled "Municipal Elections", is hereby amended by adding Section 2.06.030 thereof to read as follows:

"2.02.030. Election schedule for Council members elected by-district.

A. Councilmembers shall be elected in Council Districts 2 and 3 beginning at the General Municipal Election in November 2020, and every four years thereafter.

B. The Councilmembers from Council Districts 1 and 4 shall be elected beginning at the General Municipal Election in November 2022, and every four years thereafter."

Chapter 2.06 of the Marina Municipal Code, entitled "Municipal Elections", is hereby amended by adding Section 2.06.050 thereof to read as follows:

"2.02.030 Nominations and Elections to Public Office and Elections on Measures.

Nominations and all elections to fill public offices and elections on measures shall be made, held and conducted in the manner provided for by general law."

Section 2.

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 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.

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Section 3.

The City Council finds that the proposed amendments to the Marina 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 1S061 (b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

Section 4.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 5

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the Ordinance shall be posted within fifteen (15) days after the adoption.

THE FOREGOING ORDINANCE was introduced following a public hearing held at a regular meeting of the City Council of the City of Marina on December 3, 2019 and will come for adoption as an Ordinance of the City of Marina at a regular meeting of the Council to be held on the December 17, 2019.

AYES, COUNCIL MEMBERS: Berkley, O'Connell, Morton

NOES, COUNCIL MEMBERS: Urrutia, Delgado

ABSENT, COUNCIL MEMBERS: None ABSTAIN, COUNCIL MEMBERS: None

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk

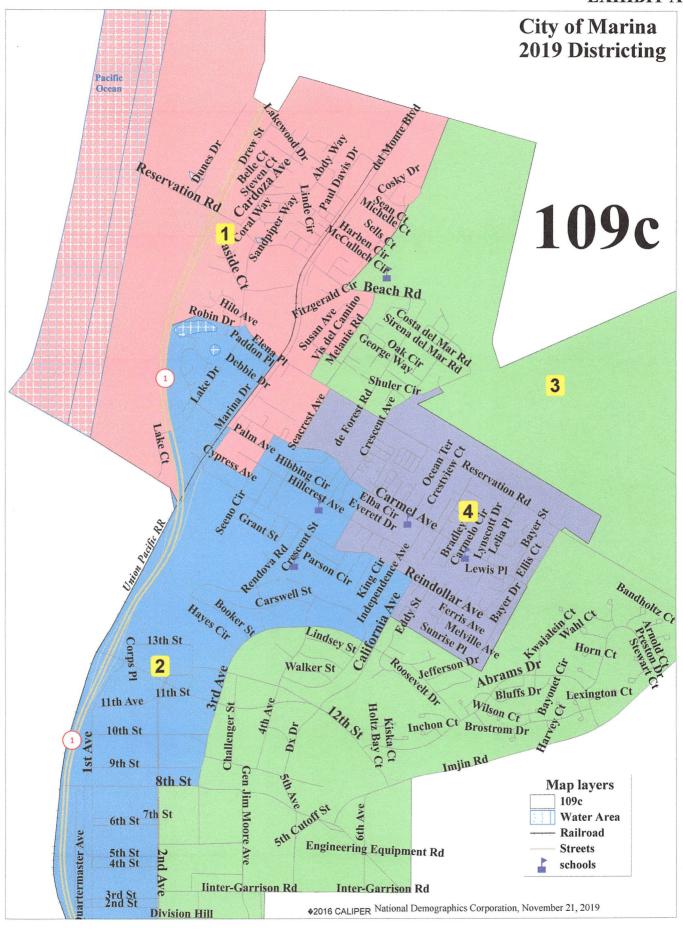


EXHIBIT A

City of Marina - Map 109c District 1 2 3 4 7						
District	W . 1 D	1 4 070	2	3	4	Tota
	Total Pop	4,978	4,840	4,784	5,116	19,718
	Deviation from ideal	48	-90	-146	186	332
· · · · · · · · · · · · · · · · · · ·	% Deviation	0.97%	-1.83%	-2.96%	3.77%	6.73%
Total Pop	% Hisp	24%	35%	25%	25%	27%
	% NH White	38%	31%	36%	38%	36%
	% NH Black	8%	8%	10%	7%	8%
	% Asian-American	24%	20%	22%	22%	22%
Citizen Voting Age Pop	Total	3,447	3,122	3,720	4,132	14,42
	% Hisp	14%	24%	21%	12%	17%
	% NH White	47%	42%	42%	48%	45%
	% NH Black	9%	8%	13%	7%	9%
	% Asian/Pac.Isl.	27%	21%	17%	27%	23%
Voter Registration (Nov 2018)	Total	2,798	2,313	2,546	2,814	10,47
	% Latino est.	23%	25%	21%	22%	23%
	% Spanish-Surnamed	21%	23%	19%	20%	21%
	% Asian-Surnamed	9%	9%	7%	9%	9%
	% Filipino-Sumamed	3%	4%	3%	4%	3%
	% NH White est.	58%	56%	52%	59%	56%
	% NH Black	10%	10%	19%	9%	12%
	Total	1,723	1,383	1,507	1.775	6,389
Voter Turnout (Nov 2018)	% Latino est.	21%	23%	16%	19%	20%
	% Spanish-Surnamed	19%	21%	15%	17%	18%
	% Asian-Surnamed	6%	6%	6%	7%	7%
		2%	3%	3%	4%	3%
	% Filipino-Surnamed					61%
	% NH White est.	62%	60%	57%	64%	
	% NH Black	11%	11%	21%	10%	13%
Voter Turnout (Nov 2016)	Total	2,067	1,704	1,647	2,055	7,473
	% Latino est.	21%	23%	20%	20%	21%
	% Spanish-Surnamed	19%	21%	18%	18%	19%
	% Asian-Surnamed	7%	7%	6%	7%	7%
	% Filipino-Surnamed	3%	4%	3%	4%	3%
	% NH White est.	61%	58%	55%	58%	58%
	% NH Black est.	8%	8%	16%	10%	11%
ACS Pop. Est.	Total	5,186	4,924	5,417	5,674	21,20
Age	age0-19	23%	22%	32%	26%	26%
	age20-60	55%	55%	54%	53%	54%
	age60plus	23%	23%	14%	21%	20%
Immigration	immigrants	24%	23%	19%	27%	24%
	naturalized	63%	53%	54%	53%	56%
	english	65%	64%	67%	59%	64%
Language spoken at home	spanish	14%	17%	17%	19%	17%
	asian-lang	17%	15%	11%	18%	15%
	other lang	4%	4%	6%	5%	5%
		470	470	070	370	370
Language Fluency	Speaks Eng. "Less	16%	17%	12%	24%	17%
	than Very Well"	F20/	F70/	F40/	E/0/	F F 0 /
Education (among those age 25+)	hs-grad	53%	57%	54%	56%	55%
	bachelor	21%	20%	20%	16%	19%
	graduatedegree	12%	11%	11%	10%	11%
Child in Household	child-under18	26%	25%	34%	24%	27%
Pct of Pop. Age 16+	employed	62%	63%	52%	59%	59%
Household Income	income 0-25k	16%	15%	21%	24%	19%
	income 25-50k	21%	22%	21%	24%	22%
	income 50-75k	20%	18%	17%	19%	19%
	income 75-200k	39%	40%	39%	31%	37%
	income 200k-plus	4%	6%	2%	2%	3%
	single family	60%	65%	56%	55%	59%
				44%	45%	41%
	multi-family	40%	35%	44 70	4370	41/
Housing Stats	multi-family rented	40% 52%	51%	72%	58%	57%
Housing Stats	multi-family rented owned					

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 2013-2017 American Community Survey and Special Tabulation 5-year