

ORDINANCE 2017-15

AN ORDINANCE OF THE CITY OF ENCINITAS, CALIFORNIA, 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 Encinitas supports the full participation of all residents in electing members of the City Council; and

WHEREAS, the City of Encinitas 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 July 20, 2017, the City received a letter from an attorney, Kevin Shenkman, asserting the City's at-large 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, 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

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 its regular meeting on August 30, 2017, the City Council adopted a resolution of intent to establish a by-district voting process 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 Encinitas 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 September 6, 2017, and September 20, 2017, at which time input from the public on the proposed composition of the districts was invited and heard; and

WHEREAS, at the public hearing on September 20, 2017, the City Council instructed its demographic consultant to develop redistricting plan options in accordance with the criteria adopted by the Council in Resolution No. 2017-90; and

WHEREAS, the City also held a public workshop at the Cardiff Elementary School on October 7, 2017, to acquaint the public with the process of moving to district-based elections, the adopted criteria, the reasons for the proposed change, and to familiarize interested members of the public with mapping tools designed to facilitate the submission of proposed maps by members of the public; and

WHEREAS, on September 29, 2017, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, five draft maps for consideration by the Council, prepared by the City's demographic consultant; and

WHEREAS, the potential sequence of elections was also published; and

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on October 11, 2017, 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 October 20, 2017, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, one additional draft map prepared by the City's demographic consultant at the Council's

request and sixteen (16) draft maps submitted by members of the public for consideration by the Council; and

WHEREAS, the potential sequence of elections for those maps was also published; and

WHEREAS, the City Council conducted an additional workshop to receive input regarding the draft district plans at a special meeting on October 30, 2017; and

WHEREAS, as required by California Elections Code section 10010, the City held additional hearings within a period of no more than 45 days from October 11, 2017, the first on November 8, 2017, and the second on November 15, 2017, 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, 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 Encinitas by-district in four single-member districts, retaining a separately elected office of Mayor.

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

SECTION ONE: EMC SECTION 2.20.010, AMENDED

Section 2.20.010 of the Encinitas Municipal Code is hereby amended as follows:

2.20.010 Election and Tenure.

The electors of the City of Encinitas shall elect one Mayor and four Council Members pursuant to Sections 2.20.080 and 2.20.090. General municipal elections are held every two years in even-numbered years. The general municipal election shall be consolidated with the statewide general election. The Mayor and City Council Members will be installed the second Tuesday of December in even-numbered years.

SECTION TWO: EMC SECTION 2.20.080, ADDED

Section 2.20.080 of the Encinitas Municipal Code is hereby added as follows:

2.20.080. By-District Electoral System for Four City Council Members.

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

B. (1) Beginning with the general municipal election in November 2018, councilmembers shall be elected in the electoral districts reflected on the map contained in Exhibit A hereto 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 section 2.20.015(A), and except as provided in Section 2.20.011, each councilmember, except 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 Council Member 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, except as otherwise provided in Section 2.20.011. 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 (Citizen Map 016) hereto, as 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.

SECTION THREE: EMC SECTION 2.20.090, ADDED

Section 2.20.090 of the Encinitas Municipal Code is hereby added as follows:

2.20.090. Election Schedule for Councilmembers Elected By-District.

A. Consistent with Section 2.20.011, councilmembers shall be elected in Council Districts 3 and 4 beginning at the General Municipal Election in November 2018, and every four years thereafter.

B. The councilmembers from Council Districts 1 and 2 shall be elected beginning at the General Municipal Election in November 2020, and every four years thereafter.

SECTION FOUR:

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.

SECTION FIVE:

The City Council finds that the proposed amendments to the Encinitas 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 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION SIX:

This ordinance was introduced on November 8, 2017.

SECTION SEVEN:

This ordinance shall take effect 30 days after adoption.

SECTION EIGHT:

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. Such section, subsection, sentence, clause or phrase, instead, shall be superseded and replaced by the corresponding provisions, if any exist, of Title 24 of the California Code of Regulations. The City Council of the City of Encinitas hereby declares that it would have passed this ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION NINE:

The City Clerk is directed to prepare and have published a summary of this ordinance together with the votes cast no less than five days prior to the consideration of its adoption and again within 15 days following adoption, indicating the votes cast.

PASSED AND ADOPTED this _____, by the following vote,
to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Catherine S. Blakespear, Mayor
City of Encinitas, California

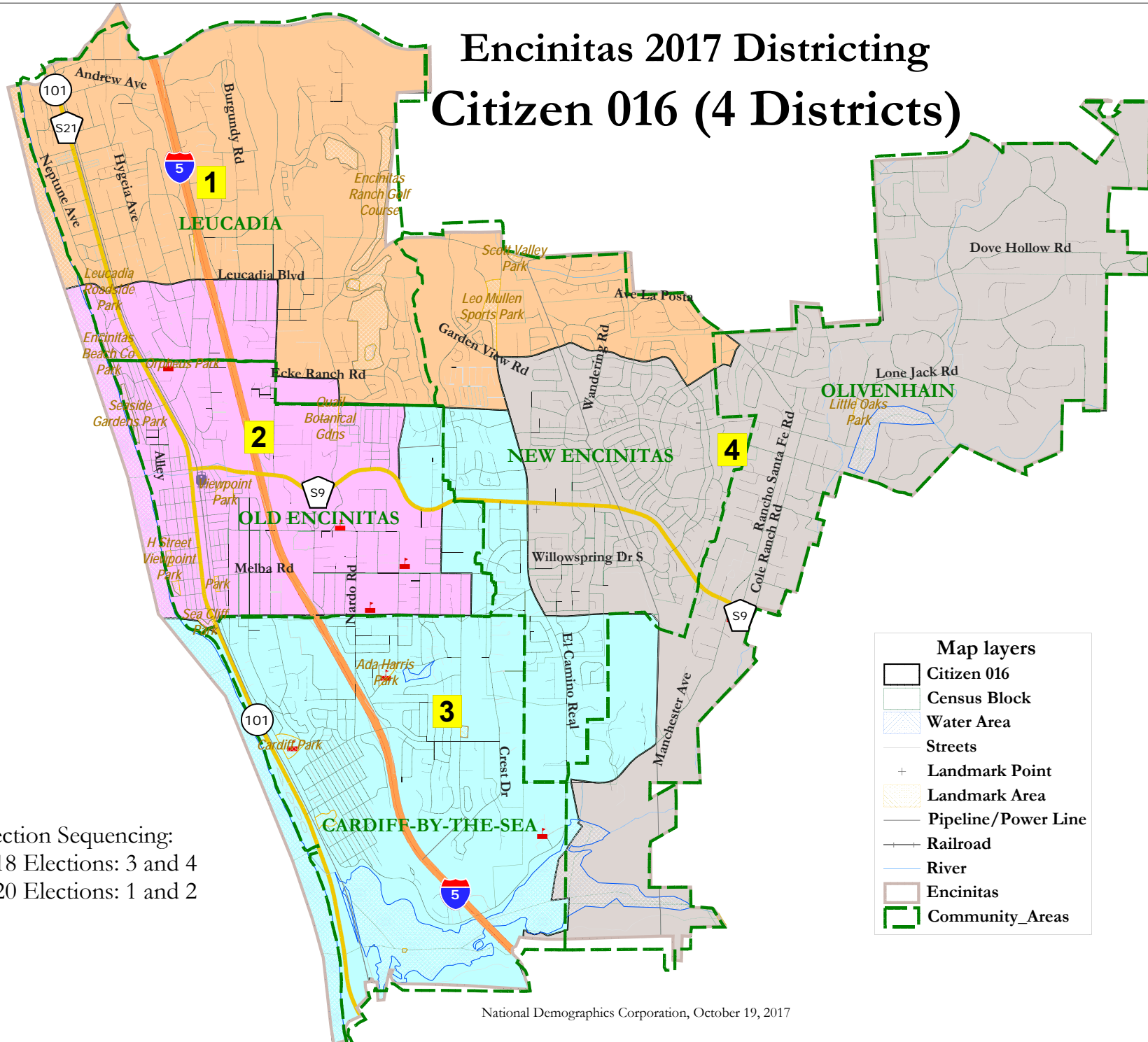
ATTEST AND CERTIFICATE:
I certify that this is a true and correct
copy of Ordinance 2017-15, which has
been published pursuant to law

Kathy Hollywood, City Clerk

Attachment: _____

Exhibit A (Citizen Map 016)

Encinitas 2017 Districting Citizen 016 (4 Districts)



Election Sequencing:
2018 Elections: 3 and 4
2020 Elections: 1 and 2

City of Encinitas - Citizen 016, 4-district map

District		1	2	3	4	Total
Ideal	Total Pop	14,802	14,432	15,379	14,905	59,518
14,880	Deviation from ideal	-78	-448	499	25	947
	% Deviation	-0.52%	-3.01%	3.35%	0.17%	6.36%
Total Pop	% Hisp	11%	21%	13%	10%	14%
	% NH White	80%	73%	80%	82%	79%
	% NH Black	1%	1%	1%	1%	1%
	% Asian-American	6%	4%	5%	6%	5%
Voting Age Pop	Total	11,631	11,832	12,525	11,245	47,233
	% Hisp	10%	18%	11%	9%	12%
	% NH White	82%	76%	82%	83%	81%
	% NH Black	1%	1%	1%	1%	1%
Citizen Voting Age Pop	% Asian-American	6%	4%	4%	5%	5%
	Total	11,025	11,254	12,587	11,058	45,924
	% Hisp	6%	13%	7%	9%	9%
	% NH White	85%	81%	87%	83%	84%
Voter Registration (Nov 2014)	% NH Black	1%	0%	1%	1%	1%
	% Asian/Pac.Isl.	8%	5%	5%	7%	6%
	Total	9,823	8,464	10,185	10,209	38,681
	% Latino est.	6%	10%	7%	6%	7%
	% Asian-Surnamed	3%	2%	2%	3%	2%
	% Filipino-Surnamed	0%	0%	1%	0%	0%
Voter Turnout (Nov 2014)	% Spanish-Surnamed	5%	9%	6%	5%	6%
	% NH White est.	87%	86%	90%	90%	89%
	% NH Black	1%	0%	1%	1%	1%
	Total	5,097	4,029	5,184	5,803	20,114
	% Latino	4%	7%	5%	4%	5%
	% Asian-Surnamed	3%	2%	2%	2%	2%
ACS Pop. Est.	% Filipino-Surnamed	0%	0%	1%	0%	0%
	% Spanish-Surnamed	4%	6%	5%	4%	5%
	% NH White est.	90%	90%	92%	92%	91%
	% NH Black	1%	0%	0%	1%	1%
	Total	14,924	14,901	17,052	15,485	62,362
Age	age0-19	22%	20%	22%	27%	23%
	age20-60	52%	59%	54%	49%	54%
	age60plus	26%	21%	23%	24%	24%
Immigration	immigrants	15%	14%	10%	13%	13%
	naturalized	61%	52%	53%	51%	55%
Language spoken at home	english	82%	82%	88%	83%	84%
	spanish	8%	12%	7%	10%	9%
	asian-lang	4%	2%	2%	3%	3%
	other lang	6%	4%	3%	4%	4%
Language Fluency	Speaks Eng. "Less than Very Well"	5%	8%	5%	6%	6%
Education (among those age 25+)	hs-grad	31%	38%	35%	37%	35%
	bachelor	38%	33%	36%	32%	35%
	graduate degree	27%	22%	24%	26%	25%
Child in Household	child-under18	62%	57%	61%	76%	64%
Work (percent of pop age 16+)	employed	54%	63%	64%	60%	61%
	Commute on Public Transit	3%	1%	1%	2%	2%
Household Income	income 0-25k	25%	24%	27%	36%	28%
	income 25-50k	19%	16%	16%	10%	15%
	income 50-75k	12%	15%	13%	11%	13%
	income 75-200k	13%	14%	11%	15%	13%
	income 200k-plus	38%	41%	41%	47%	42%
Housing Stats	single family	636%	781%	571%	630%	645%
	multi-family	74%	69%	38%	26%	51%
	vacant	563%	712%	533%	604%	595%
	occupied	213%	341%	217%	141%	225%
	rented	165%	109%	146%	327%	165%
	owned	224%	155%	202%	386%	219%

Total and Voting Age 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 2011-2015 American Community Survey and Special Tabulation 5-year data.