

## ORDINANCE 488

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS WITH AN ELECTIVE OFFICE OF MAYOR PURSUANT TO CALIFORNIA ELECTIONS CODE § 10010 & CALIFORNIA GOVERNMENT CODE §§ 34871(C) & 34886

**WHEREAS**, the City of Solana Beach currently elects its five City Councilmembers using an at-large election system, and the City Council selects a Mayor and Deputy Mayor from among its members; and

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

**WHEREAS**, the City's current electoral system observes the guarantees of Section 7 of Article I and Section 2 of Article II of the California Constitution, the Equal Protection Clause of the United States Constitution, and the federal Voting Rights Act; 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 February 20, 2018, 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, even if the City is successful, and at this time such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and

**WHEREAS**, under the provisions of California Government Code sections 34870-34884, a proposal to adopt a by-district method of election in a general law city must ordinarily be submitted to the voters of the city; and

**WHEREAS**, California Government Code section 34886 permits the City Council, to change the City's method of election by ordinance, with certain formalities, to a "by-district" system; 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**, the City wishes to avoid litigation and take advantage of the provisions of Government Code section 34886, and therefore, 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 Solana Beach made by this Ordinance also implements 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**, at its regular meeting on April 11, 2018, the City Council adopted a resolution of intent to establish a by-district voting process pursuant to Elections Code section 10010, Resolution No. 2018-042; 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 May 14, 2018, and May 15, 2018, at which time input from the public on the proposed composition of the districts was invited and heard; and

**WHEREAS**, on May 23, 2018, consistent with the provisions of California Elections Code section 10010, the City published and made available for public review, thirty (30) draft maps for consideration by the Council, two of which were prepared by the City's demographic consultant, and the rest of which were submitted by members of the public; and

**WHEREAS**, the potential sequence of elections for each map was also published; and

**WHEREAS**, between May 29 and May 30, 2018, the City published four revisions to draft maps submitted by the public and already published on May 23, 2018; and

**WHEREAS**, as required by California Elections Code section 10010, the City held a third public hearing on May 30, 2018, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

**WHEREAS**, after the close of the public hearings on May 30, the City Council provided instruction to the City's demographic consultant about revisions to draft maps 404 and 410, which had been submitted by members of the public; and

**WHEREAS**, the revised maps were published as "Focus Maps" and made available for public review on June 6, 2018, and the potential sequence of elections for those maps was published as well; and

**WHEREAS**, as required by California Elections Code section 10010, the City held a fourth public hearing on June 26, 2018, 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**, it is the considered view of the City Council that revised draft map 410e, attached hereto as Exhibit A and incorporated into this Ordinance by reference, will serve the best interests of the City of Solana Beach; 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 Solana Beach by-district in four single-member districts, and a separately elected office of Mayor.

**NOW, THEREFORE**, the City Council of the City of Solana Beach, California, does ordain as follows:

Section 1: Article IA is hereby added to Chapter 2.24 of the Solana Beach Municipal Code as provided below in Sections 2 through 10.

Section 2: SBMC SECTION 2.24.016, ADDED

Section 2.24.016 of the Solana Beach Municipal Code is hereby added to Article 1A as follows:

**2.24.016. Four City Councilmembers and Elective Mayor.**

Pursuant to California Government Code sections 34886 and 34871(c), commencing with the November 2020 general municipal election, the members of the Solana Beach City Council shall be elected by-districts in four (4) single-member districts with an elective Mayor. Each Councilmember shall serve a term of four years. The Mayor shall be elected by the people of Solana Beach and shall serve a term of four years.

Section 3: SBMC SECTION 2.24.017, ADDED

Section 2.24.017 of the Solana Beach Municipal Code is hereby added to Article 1A as follows:

**2.24.017. By-District Electoral System for Four City Councilmembers.**

A. Beginning with the general municipal election in November 2020, Councilmembers shall be elected in the electoral districts reflected on the map contained in Exhibit A hereto, which is incorporated herein by this reference, and as subsequently reapportioned as provided by 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 2.24.016, each Councilmember shall serve a four-year term until his or her successor has qualified.

B. Except as provided in subdivision (C) 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, 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 article 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 subsequently reapportioned as provided by 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 4: SBMC SECTION 2.24.018, ADDED

Section 2.24.018 of the Solana Beach Municipal Code is hereby added to Article 1A as follows:

**2.24.018. Election Schedule for Councilmembers Elected By-District.**

A. Consistent with Sections 2.24.016 and 2.24.017, the Mayor and Councilmembers from Council Districts 1 and 3 shall be elected beginning at the General Municipal Election in November 2020, and every four years thereafter.

B. Consistent with Section 2.24.017, the Councilmembers from Council Districts 2 and 4 shall be elected beginning at the General Municipal Election in November 2022, and every four years thereafter.

#### Section 5: IMPLEMENTATION

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 6: ENVIRONMENTAL REVIEW

The City Council finds that the proposed amendments to the Solana Beach 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 7: SEVERABILITY

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 Solana Beach 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 8: INCONSISTENCIES

To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

#### Section 9: INTERPRETATION

In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its stated purposes.

Section 10: SUNSET PROVISIONS

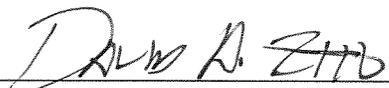
This Ordinance shall be of no further force and effect if the California Voting Rights Act, Elections Code sections 14025 through 14032, as it now exists or may hereafter be amended, is repealed, or declared by a court of competent jurisdiction to be facially unconstitutional, in whole or in part, or unconstitutional, in whole or in part, as applied to the City of Solana Beach, or is amended such that its provisions no longer apply to the City of Solana Beach. In the event this Ordinance is of no further force and effect pursuant to this section, the City Council shall immediately consider an ordinance repealing Article 1A of Chapter 2.24 of Title 2 of the Municipal Code of the City of Solana Beach. In the event this Ordinance is of no further force and effect pursuant to this section, the incumbent Councilmembers elected pursuant to the provisions of this Ordinance shall complete their terms of office until their successors are qualified, and their successors shall be elected at-large in the order in which the terms of the then-incumbent Councilmembers expire and in accordance with all other provisions of law, until such time as the voters of the City of Solana Beach shall approve a different method of election City Councilmembers in accordance with Government Code section 34871, et seq.

**EFFECTIVE DATE:** This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code § 36933.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Solana Beach, California on the 26<sup>th</sup> day of June 2018; and

**THEREAFTER ADOPTED** at an adjourned regular meeting of the City Council of the City of Solana Beach, California on the 10<sup>th</sup> day of July, 2018, by the following vote:

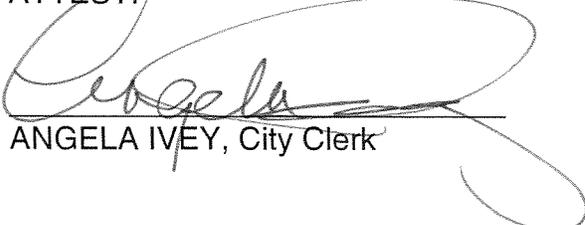
AYES: Councilmembers – Zito, Edson, Hegenauer, Heebner, Zahn  
NOES: Councilmembers – None  
ABSENT: Councilmembers – None  
ABSTAIN: Councilmembers – None

  
\_\_\_\_\_  
DAVID A. ZITO, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOHANNA N. CANLAS, City Attorney

ATTEST:

  
\_\_\_\_\_  
ANGELA IVEY, City Clerk

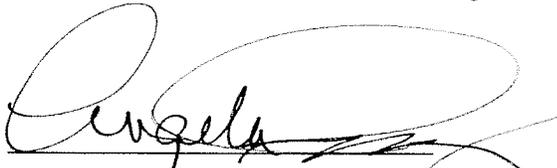




## ORDINANCE CERTIFICATION

STATE OF CALIFORNIA }  
COUNTY OF SAN DIEGO } §  
CITY OF SOLANA BEACH }

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of **ORDINANCE 488** establishing a by-district election process in four Council districts with an elective office of Mayor beginning in the 2020 General Election as duly introduced on June 26, 2018 and adopted on July 10, 2018, an adjourned regular meeting, by the City Council of Solana Beach. This Ordinance has been published as required pursuant to law and the original is filed in the City Clerk's Office. (GC 40806).

  
ANGELA IVEY, CITY CLERK

CERTIFICATION DATE: July 20, 2018