



City Council  
Agenda Report

Agenda Item 100.

**DATE:** 02/08/2022  
**TO:** Honorable Mayor and City Councilmembers  
**FROM:** Morgan Foley, City Attorney  
**SUBJECT:** Introduction of an Ordinance adopting a District Map for Council Member Elections in El Cajon

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RECOMMENDATION:

That the City Council:

1. Opens the public hearing and receives testimony;
2. Closes the public hearing; and
3. Moves to INTRODUCE the next ORDINANCE, in order.

BACKGROUND:

In 2016, residents of the City of El Cajon (the "City") passed Measure S, amending Section 201 of the City Charter ("Section 201") to transition the City from an at-large election system to a district-based election process. In 2017, after conducting procedures to establish them, the map designating the Council districts (the "District Map") was approved by Ordinance No. 5062, which also added Chapter 1.18 to establish the district-based election process for Council Members other than the Mayor.

As a result of these actions the City must reevaluate its District Map every ten years following the release of the federal decennial Census data to ensure that the districts remain balanced and in conformance with federal and State voting rights laws. To comply with California election laws, in particular, AB 849 (the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act, adopted in 2019) (the "FAIR MAPS Act"), the City must adopt an approved District Map by April 17, 2022.

The 2020 U.S. Census data was released by the State of California on September 27, 2021. The City's demographer, National Demographics Corporation, analyzed the data against the City's current District Map and found that the districts remain balanced, as the difference between the lowest and highest populous districts is 5.35%, which is below the 10% threshold for a map to be considered "presumptively constitutional," or balanced, under the equal population requirement of the federal Voting Rights Act of 1965 (the "Voting Rights Act").

As required by the federal Voting Rights Act and California's FAIR MAPS Act, the City held four noticed redistricting hearings on July 14, 2021, September 8, 2021, November 4, 2021, and January 22, 2022. The hearings were held during evening and weekend hours and located in each of the City's four council districts to increase access to the hearings and encourage broad community participation.

In accordance with the FAIR MAPS Act, the City created a dedicated webpage and translated specific materials into Arabic, Spanish, Somali, Dari and Pashto, including a how-to video for online mapping, presentations, flyers, and banners, and provided live interpretation during public hearings when requested in advance.

The FAIR MAPS Act specifies that the following prioritized criteria must be met in adopting an election district boundary map: (1) it complies with the Voting Rights Act and its equal population requirement; (2) it is geographically contiguous; (3) it is made up of undivided "neighborhoods of interest"; (4) it has easily identifiable boundaries; and (5) it is compact.

The FAIR MAPS Act also prohibits discrimination against a political party and the federal Voting Rights Act prohibits "gerrymandering" based on race. In addition, there are several traditional districting principles that can be considered, including minimizing voter shifts to different election years, respecting voters' choices, and future population growth.

One final issue is that Section 201 contemplates that the redistricting process should be completed by December 31st of the calendar year following the census. As a result of factors outside the control of the City, as set forth in the attached ordinance, the City Council is approving the new District Map 53 days after December 31, 2021. It is the opinion of the City Attorney that where circumstances exist beyond the City's control makes adoption of a new District Map on or before the December 31st date, while still complying with both the letter and the spirit of federal and State voting rights laws, this deadline should be considered advisory, not mandatory. Finding No. 6 in Section 4 of the attached ordinance addresses this issue.

At the Redistricting Hearing held on January 22, 2022, after due consideration of the thirteen (13) maps submitted for its consideration, the City Council voted to select the existing District Map for approval at this Council meeting by the introduction of the attached ordinance. If approved after first reading and introduction, the ordinance will return for adoption at the February 22, 2022, Council meeting.

#### FISCAL IMPACT:

Minor costs to publish the map and ordinance or a summary of the ordinance.

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#### Attachments

Ordinance

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CAJON, CALIFORNIA, APPROVING FOUR COUNCIL DISTRICTS FOLLOWING THE 2020 DECENNIAL FEDERAL CENSUS, AND ADOPTING A NEW MAP DESCRIBING THE BOUNDARIES OF EACH OF THE DISTRICTS

THE CITY COUNCIL OF THE CITY OF EL CAJON DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 201 of the El Cajon Charter states that not later than December 31<sup>st</sup> of the year following the year in which the decennial federal census is taken the City Council shall adopt an ordinance to divide the City into four Council districts. The 2020 decennial federal census was not published until August 12, 2021, due to delays caused by the COVID-19 pandemic; the federal census data was thereafter adjusted by the California Statewide Database, which was published in its final version on September 27, 2021.

SECTION 2. As a result of delays in publishing the decennial federal census (including delays caused by the adjustments made by the California Statewide Database) the City was unavoidably precluded from meeting the deadline to adopt the Council district map by December 31, 2021, as required by Section 201 of the Charter. These delays were further compounded by the need to follow new public hearing processes as required by California Elections Code sections 21620 et seq., which were originally added to California law by the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions Act, adopted in 2019 (the "FAIR MAPS Act").

SECTION 3. Following the guidelines established by the FAIR MAPS Act, as well applicable City Council resolutions and Section 201, the City has conducted such public hearings and other proceedings to develop draft maps of Council districts that fully comply with State and federal voting rights laws for consideration by the City Council.

SECTION 4. The City Council makes the following findings:

1. The City of El Cajon has conducted a series of public meetings and held at least four (4) properly noticed and conducted public hearings, each in one of the current Council districts, and all in compliance with the FAIR MAPS Act, specifically: on Wednesday, July 14, 2021, at 6:30 p.m., at the Hillside Recreation Center; on Wednesday, September 8, 2021, at 6:30 p.m., at the Renette Recreation Center; on Thursday, November 4, 2021, at 7:00 p.m., at the Kennedy Recreation Center; and on Saturday, January 22, 2022, at 10:30 a.m., at the El Cajon Valley High School. The first and second meetings (each a pre-draft map hearing) were to obtain public testimony identifying "neighborhoods," "community of interests," and "secondary areas," as well as to inform the public on the use of mapping tools on the

City's website in order to assist the public in the drafting of potential Council district maps. The third meeting, following the first submission of maps, was to hold a public hearing to present, discuss, and revise draft maps available for review, and to identify focus maps (i.e., those that the City Council identifies as eligible for a final determination). The fourth and final meeting, at which the City Council held a public hearing to review the focus maps, was to identify a map from that group preferred by the City Council to be approved by this ordinance.

2. During each public hearing and public meeting involved in the process, the City Council encouraged the public to participate and assist in the development of Council district maps.
3. The City of El Cajon has provided the public with demographic and voting information, and website tools allowing the public the opportunity to create their own maps for consideration by the City Council. Such information and tools were made available in English, Spanish, Arabic, Somali, Dari, and Pashto, and translators for those languages, if requested, were provided at each public hearing.
4. The El Cajon City Council has listened to and reviewed public testimony and comments, both oral and written, and considered districting plans reflected in a total of thirteen proposed maps (identified as Maps 100 through 112). Maps 100 through 112 were created by either the City's consultants or members of the public.
5. That upon consideration of the staff report and all public testimony presented, both oral and written, the City Council finds that the proposed Council districts reflected in the districting plan in Map 100, as set forth in Exhibit A, comply with the criteria set forth in Chapter 1.18 of the El Cajon Municipal Code; Resolution No. 006-17; are as equal as practicable in population as shown by the United States 2020 Census; were drawn to comply with the federal Voting Rights Act, the California Voting Rights Act, and the FAIR MAPS Act; are geographically contiguous ; were drawn with respect for the geographic integrity of neighborhoods and communities of interest; are easily identifiable and understandable by residents; drawn to encourage compactness, were not drawn for the purposes of favoring or discriminating against any race; and were not drawn for the purpose of favoring or discriminating against an incumbent, political candidate, or political party.
6. Delays in publishing the decennial federal census (including delays caused by the adjustments made by the California Statewide Database), which were further compounded by the need to follow new public hearing processes as required by the FAIR MAPS Act, made it legally impossible for the City Council to adopt the Council district map by December 31, 2021,

as required by Section 201 of the Charter. The City Council hereby finds that the deadline established by Section 201 is merely advisory; therefore, the City Council hereby waives any failure to meet the deadline for the Council district map as set forth Section 201.

SECTION 5. The City of El Cajon is hereby divided into four Council districts, and the boundaries of the districts are more particularly depicted in Exhibit A, which is attached hereto and incorporated herein by this reference.

SECTION 6. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION 7. As of the effective date of this ordinance, all ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 8. As this ordinance relates to an election, it shall be effective upon adoption by the City Council.

SECTION 9. The City Clerk is hereby directed to certify the passage of this ordinance and to cause the same or a summary to be published in a newspaper of general circulation, printed, and published in the City of El Cajon.

02/08/22 CC Agenda – 1<sup>st</sup> Reading  
02/22/22 CC Agenda – 2<sup>nd</sup> Reading

Ord - Adopt District Map of El Cajon 012522