

## **ORDINANCE NO. 18-03**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS (GOV. CODE § 34886 & ELEC. CODE §10010)**

**WHEREAS**, the City of Dana Point currently elects its members of the City Council using an at-large method of election where candidates may reside in any part of the City and each member of the City Council is elected by the voters of the entire City; and

**WHEREAS**, while the City Council of the City of Dana Point strongly believes that the interests of all of the City's residents have been fully and fairly represented under the City's current at-large method of election, the City Council nonetheless finds that moving to a by-district method of election is in the best interest of the City and its taxpayers because of the status of State law, and the significant litigation costs that could result if the City does not change its method of election; and

**WHEREAS**, California Government Code Section 34886, which became effective January 1, 2017, permits the City Council to change the City's method of election by ordinance to a "by-district" system in which each member of the City Council is elected only by the voters in the district in which the candidate resides; and

**WHEREAS**, under the provisions of California Elections Code, a city that changes from an at-large city council method of election to a by-district city council method of election requires a total of five public hearings, which includes at least two public hearings regarding potential voting district boundaries prior to the release and consideration of any draft voting district maps, two public hearings following the release of draft voting district map(s); and a fifth public hearing for the purpose of adopting an ordinance, that includes district maps, in order to transition to district voting; and

**WHEREAS**, at regular meeting of the City Council of the City of Dana Point held on the 20th day of February, 2018, the City Council adopted Resolution No. 18-02-20-04 that initiated the process of establishing a by-district election system and adopted the schedule therefore; and

**WHEREAS**, at regular meetings of the City Council of the City of Dana Point held on the 6th and 20th day of March, 2018, pursuant to California Elections Code Section 10010(a)(1), the City Council held public hearings where the public was invited to provide input regarding the composition of the City's voting districts before any draft maps were drawn, and the City Council of the City of Dana Point considered and discussed the same; and

**WHEREAS**, thereafter, at regular meetings of the City Council of the City of Dana Point held on the 3rd and 17th day of April, 2018, pursuant to California Elections Code Section 10010(a)(2), the City Council held public hearings where the public was invited to provide input regarding the content of the draft maps that had been released at least

seven (7) days before each meeting, and the City Council of the City of Dana Point considered and discussed the same; and

**WHEREAS**, additional public forums were held to take public input regarding potential maps on April 9 and April 25, 2018; and

**WHEREAS**, at the regular meeting of the City Council of the City of Dana Point held on the 1st day of May, 2018, the City Council held a final public hearing on the proposal to establish district boundaries, reviewed additional public input, and introduced this Ordinance for a first reading which: formally selects voting district map Tan VI, attached hereto; directs that seats for Council Districts 1, 2 and 3 will be placed on the City's 2018 ballot; and directs that the seats for Council Districts 4 and 5 will be placed on the 2020 ballot; and

**WHEREAS**, the purpose of this Ordinance is to enact, pursuant to California Government Code Section 34886, an Ordinance providing for the election of members of the City Council of the City of Dana Point by-district in five single-member districts as reflected in Exhibit A to this Ordinance, 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 to implement the guarantees of Section 7 of Article 1 and of Section of Article II of the California Constitution.

**NOW, THEREFORE**, the City Council of the City of Dana Point does ordain as follows:

**SECTION 1.** The foregoing recitals are true and correct.

**SECTION 2.** Chapter 2.05 of the Dana Point Municipal Code is hereby amended by adding new Sections 2.05.085, 2.05.086 and 2.05.087 to read as follows:

**2.05.085 By-District Electoral System.**

Pursuant to California Government Code Section 34886 and the schedule established in Section 2.05.087 of this Chapter, beginning in November 2018, members of the City Council shall be elected on a by-district basis from five (5) single-member Council Districts. The City's by-district electoral system shall be conducted in accordance with California Government Code Section 34871, subdivision (a).

**2.05.086 Establishment of City Council Electoral Districts.**

A. Pursuant to Section 2.05.085 of this Chapter, members of the City Council shall be elected on a by-district basis, as that term is defined in California Government Code Section 34871, subdivision (a), from the five Council Districts described as follows, which shall continue in effect until they are amended or repealed in accordance with law:

1. Council District 1 shall comprise all that portion of the City reflected on Exhibit A.
2. Council District 2 shall comprise all that portion of the City reflected on Exhibit A.
3. Council District 3 shall comprise all that portion of the City reflected on Exhibit A.
4. Council District 4 shall comprise all that portion of the City reflected on Exhibit A.
5. Council District 5 shall comprise all that portion of the City reflected on Exhibit A.

B. Members of the City Council shall be elected in the electoral districts established by this Section and subsequently reapportioned pursuant to applicable State and federal law.

C. Except as provided in subdivision D herein and notwithstanding any other provision of this Chapter, once this Ordinance is fully phased in, each member of the City Council 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 member of the City Council shall create an immediate vacancy for that Council district unless a substitute residence within the district is established within thirty (30) days after the termination of residency.

D. Notwithstanding any other provision of this Section, and consistent with the requirements of California Government Code Section 36512, the members of the City Council in office at the time the Ordinance codified in 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. At the end of the term of each member of the City Council that member of the City Council's successor shall be elected on a by-district basis in the districts established in this Section and as provided in this Chapter.

#### **2.05.087 Election Schedule.**

Except as otherwise required by California Government Code Section 36512, the members of the City Council shall be elected from Council Districts 1, 2, and 3 beginning at the General Municipal Election in November 2018, and every four years thereafter, as such Council Districts shall be amended. Members of the City Council shall be elected from Council Districts 4 and 5 beginning at the General

Municipal Election in November 2020, and every four years thereafter, as such Council Districts shall be amended.

**SECTION 3.** A map showing the districts described in this Ordinance and codified in Section 2.05.086 of the City of Dana Point Municipal Code is attached hereto as Exhibit A and incorporated herein by reference.

**SECTION 4.** If necessary to facilitate the implementation of this Ordinance as determined by the County Registrar of Voters, the City Clerk 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 Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise endeavor to provide the City Council with 3 days advance notice of any such adjustments required in the implementation of the districts.

**SECTION 5.** In the event at any time in the future the California Voting Rights Act is amended, found to be unconstitutional, or otherwise is no longer applicable to the City, the City Council expressly indicates its intention that the by-district election method be re-examined, and on behalf of itself and all future City Councils, expressly reserves its right to repeal or modify this Ordinance.

**SECTION 6.** 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 7.** In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its stated purposes.

**SECTION 8.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Dana Point hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 9.** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days from its adoption.

**INTRODUCED** at a regular meeting of the City Council of the City of Dana Point held on the 1st day of May, 2018, and thereafter,

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Dana Point held on the 15<sup>th</sup> day of May, 2018.



RICHARD VICZOREK, MAYOR

**ATTEST:**



KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss.  
CITY OF DANA POINT )

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Ordinance No. 18-03 was duly introduced at a regular meeting of the City Council on the 1<sup>st</sup> day of May, 2018, and was duly adopted and passed at a regular meeting of the City Council on the day of 15<sup>th</sup> day of May, 2018, by the following vote, to wit:

AYES: Council Members Tomlinson, Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: Council Member Lewis

ABSENT: None

  
KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss  
CITY OF DANA POINT )

AFFIDAVIT OF POSTING  
AND PUBLISHING

KATHY WARD, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 18-03, being:

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was published in summary in the Dana Point News on the 10<sup>th</sup> day of May, 2018, and the 24<sup>th</sup> day of May, 2018, and in further compliance with City Resolution No. 91-10-08-01 on the 3<sup>rd</sup> day of May, 2018, and on the 17<sup>th</sup> day of May, 2018 was caused to be posted in four (4) public places in the City of Dana Point, to wit:

Dana Point City Hall  
Capistrano Beach Post Office  
Dana Point Post Office  
Dana Point Library



KATHY WARD, CITY CLERK  
Dana Point, California



EXHIBIT A

