

Frequently Asked Questions (FAQs) - Moving to District Elections

What are the Federal and California Voting Rights Acts?

The Federal Voting Rights Act (FVRA) was adopted in 1965. Section 2 of the FVRA prohibits all voting practices or procedures that result in the denial or abridgement of the right of any citizen to vote on account of race, color, or membership in a language minority group.

The California Voting Rights Act (CVRA) was passed by the California State Legislature in 2002 and specifically targets at-large election systems. It prohibits such systems from being “imposed or applied in a manner that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.” Upon finding a violation of the CVRA, the act requires courts to “implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.”

Why is the City of Orange considering changing its election process?

On July 10, the City of Orange reached a settlement with the Plaintiffs of the CVRA suit. The suit sought an injunction against further at-large elections in the City of Orange. The settlement resulted in a Stipulated Judgment cancelling the special at-large election originally scheduled for November 5, 2019 to fill a vacant City Council seat. The City also agreed to move to by-district elections starting with the general election in November 2020, and that there would be six voting districts. The position of Mayor will remain a separately-elected office directly elected by the voters every two years.

Even if the City of Orange prevailed under this specific legal challenge to its current at-large system, the cost of defending a CVRA lawsuit is extremely high. Moreover, a successful defense would not prevent a different plaintiff from suing the city in the future. The CVRA mandates that prevailing plaintiffs be entitled to recover their attorneys’ fees and expenses.

The City of Orange is committed to excellent service to our residents, visitors and businesses. Fiscal responsibility is a critical priority of city leadership. Diverting huge amounts of money for protracted legal costs would impede our ability to do so at the levels our residents expect and deserve.

What would happen if the City defended and lost a CVRA court case?

If the City mounted a legal defense of its current at-large system and lost, for one thing, the Judge would have the final word in selecting a districting plan for the City. Orange residents may not be able to participate by providing input. For example, in the CVRA case against the City of Santa Monica, the judge imposed the district boundaries proposed by the plaintiffs without even one public hearing. Under Resolution No. 11155 adopted by the City Council, residents will be extensively involved in the district mapping process. As noted above, the City would also be liable to pay the plaintiff’s reasonable attorneys’ fees.

Have other cities encountered this? What did they do?

Hundreds of cities, school districts and other local agencies in California have faced similar threats of court challenges in recent years. Locally, the latest cities to transition to district elections include Anaheim, Costa Mesa, Dana Point, Fullerton, Garden Grove, Lake Forest and Stanton.

Other cities have voluntarily adopted or been forced to adopt changes to their method of electing City Council members. While some cities have settled claims out of court by agreeing to shift to district elections, others have defended at-large elections through the court system and have incurred significant legal costs because the CVRA gives plaintiffs the right to recover attorney fees from the defendant-jurisdiction.

What kind of legal costs can be incurred from a CVRA lawsuit?

Legal costs are typically in the six- or seven-figure range regardless of the outcome. For example the following cities spent large amounts of their budget on litigation, lost and still had to transition to district-based elections.

- Palmdale: \$4.5 million
- Modesto: \$3 million
- Anaheim \$1.1 million
- Whittier: \$1 million

Santa Monica has reportedly spent \$6-8 million defending a CVRA claim to date and the case is still being adjudicated on appeal.

Why haven't cities prevailed in defending these allegations?

There are many factors that contribute to success or failure in a lawsuit. These include: the law under which the claims are brought; the specific facts involved in the case; the lawyers arguing the two sides in the case; and the judge hearing the case. Generally, under the CVRA, the initial burden of proof for plaintiffs is much lighter than under the FVRA. Some cases that have been won under the CVRA would fail under the FVRA. The CVRA requires two showings to establish liability: 1) racially polarized voting in the jurisdiction resulting in the inability of minority voters to elect a candidate of their choice and 2) dilution or the abridgment of the rights of voters who are members of a protected class. California judges have been more liberal in finding these factors than federal judges. For example, even if there is no racially polarized voting in city elections, the CVRA permits a plaintiff to use voting patterns in non-city elections to prove racially polarized voting.

What has the City done to prepare for district elections?

On April 23, 2019, the City Council approved a resolution declaring its intention to transition from at-large to district-based elections beginning in November 2020. The City Council also directed staff to retain a qualified demographer, and other appropriate consultants, to provide a detailed analysis of the City's current demographics and any other information or data necessary to

prepare a draft map that divides the City in voting districts in a manner consistent with the intent and purpose of the Federal Voting Rights Act and California law.

The City will seek public input on the proposed district-based electoral maps before they are adopted by the City Council.

The Council wants to ensure that City residents have every opportunity to provide input in this important process.

What is the City's current City Council election process?

The City of Orange currently elects City Council members through an at-large election process, which means that each voter participates in the election of all members of the City Council. The City's mayor is separately elected by all the voters of the City and also sits on the City Council.

What are by-district elections?

In by-district elections the City is divided into Council districts. Each voter resides within one of those districts and participates in the election of one City Council member who must also reside in and be a registered voter of that district. State law permits cities to have district-based elections for council members and a separately elected mayor as an electoral system in compliance with the CVRA.

As of the General Election of November 3, 2020, Orange will have 6 districts. The Mayor will still continue to be directly elected on an at-large basis.

What criteria are used to create Council electoral districts?

Many factors may be considered, but population equality is the most important. Race or ethnicity cannot be the predominant consideration. Other factors may include, but are not limited to:

- Communities of interest
- Compactness of districts
- Contiguity of district territory
- Visible (natural and man-made) boundaries
- Geography & topography

The City Council adopted a resolution indicating its intent to transition to district elections, and will hold at least two community meetings where public testimony, suggestions, and community input are heard to help develop criteria for drawing districts.

What are communities of interest?

A community of interest is a neighborhood or geographically defined group with shared interests or characteristics that could be affected by district boundaries. Possible community of interests could be defined by such things as:

- School attendance areas
- Natural neighborhood dividing lines such as roads, hills, or highways
- Areas around parks and other landmarks and public facilities
- Homeowner associations
- Common local issues, neighborhood activities or concerns
- Single-family and multi-family housing units
- Historical and other unique areas
- Development goals
- Local environmental concerns
- Transportation corridors

What is the timeline for the change?

The city, in conjunction with the demographer, has established a schedule for soliciting public input during the district mapping process.

April 23	Council adopted resolution of intent
May 14	Council to consider public meeting schedule
June 13 (Thursday) 7:00 pm	Community Meeting / Public Hearing #1 held at Grijalva Sports Center (368 N. Prospect Ave.)
June 26 (Wednesday) 7:00 pm	Community Meeting / Public Hearing #2 held at Shaffer Park (1930 N. Shaffer St.)
July 23 (Regular Council Meeting)	Council receives report on feedback received at first two community meetings and considers districting criteria
August 1	Deadline for submission of draft maps by members of the public
August 27 (Special Council Meeting)	Draft maps are presented and public input is received / Public Hearing #3 (maps must be made available to public 7 days prior)
August 29	Deadline for submission of amendments to draft maps submitted by members of the public
September 10 (Regular Council Meeting)	Public Hearing #4 (amended maps must be made available to public 7 days prior) First Reading of Ordinance for districting maps
October 8 (Regular Council Meeting)	Public Hearing #5/ Second Reading of Ordinance

When will the new districts take effect?

The new by-district election system will begin with the November 2020 election.

Who creates district boundaries?

A professional demographer has been hired by the City to assist in the creation of proposed district boundaries based on extensive input gathered from residents and demographics. District boundaries can also be proposed by members of the public. All draft maps will be made available to the public 7 days before the public hearing at which they are considered. City Council will ultimately adopt an ordinance documenting the final map.

How can I participate?

Residents will be invited to participate in a series of community meetings and public hearings as noted above. Residents will also be provided with tools that will enable them to suggest district boundaries. Residents can also communicate with the City about district boundaries by email and in writing. To learn about next steps in the process please visit the city's website at www.cityoforange.org or call the City Manager's office at (714) 744-2222.

Where can I learn more?

Contact the City of Orange City Manager's Office with any comments or questions by calling (714) 744-2222 or visit the city's website at www.cityoforange.org.