

ORDINANCE NO. 1650**AN ORDINANCE OF THE CITY OF NOVATO, CALIFORNIA,
ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FIVE COUNCIL
DISTRICTS PURSUANT TO CALIFORNIA ELECTIONS CODE § 10010 &
CALIFORNIA GOVERNMENT CODE §§ 34871(A) & 34886**

WHEREAS, the City of Novato supports the full participation of all residents in electing members of the City Council; and

WHEREAS, the City of Novato currently elects five City Council members using an at-large election system; 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 that district's representative will be; and

WHEREAS, on February 13, 2019, the City received a letter from an attorney asserting the City's at-large electoral system violates the California Voting Rights Act ("CVRA"), and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, the letter did not contain any evidence of a violation of the CVRA, and the City denies its election system violates the CVRA or any other provision of law, asserts that there is no evidence of a violation of the CVRA, asserts the City's election system is legal in all respects, and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its City Council elections, but recognizes that the cost of defending against a claim under the CVRA 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(a) provides for the election of members of the legislative body of a city by districts in five districts; and

WHEREAS, at its regular meeting on March 12, 2019, 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 Novato 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 March 26, 2019, and April 9, 2019, 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 April 9, 2019, the City Council instructed its demographic consultant to develop redistricting plan options in accordance with the criteria adopted by the Council; and

WHEREAS, on April 15, 2019, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, four (4) draft maps for consideration by the Council, prepared by the City's demographic consultant; and

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

WHEREAS, as required by California Elections Code section 10010, the City held a public hearing on April 23, 2019, at which the public was invited to provide input regarding the content of the draft maps published on April 15, 2019, and the potential sequence of elections; and

WHEREAS, on May 6, 2019, consistent with the provisions of California Elections Code section 10010, the City published and made available for release, one (1) additional draft map prepared by the City's demographic consultant, sixteen (16) draft maps submitted by members of the public, and one (1) draft map submitted by a Councilmember for consideration by the Council; and

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

WHEREAS, as required by California Elections Code section 10010, the City held two additional hearings within a period of no more than 45 days, the first on May 14, 2019, the second on May 21, 2019, 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 Novato by-district in five single-member districts.

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

SECTION ONE: NMC SECTION 2-3.4, ADDED

Section 2-3.4 of the Novato Municipal Code is hereby added to read as follows:

2-3.4. By-District Electoral System for City Council Members.

A. Pursuant to California Government Code sections 34886 and 34871(a), councilmembers shall be elected by-districts in five (5) single-member districts.

B. (1) Beginning with the general municipal election in November 2019, 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. Each councilmember shall serve a term in accordance with Sections 2-3.2 and 2-3.3 of the Novato Municipal Code until his or her successor has qualified.

(2) Except as provided in Subsection (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 Section 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 elected at-large, 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 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 TWO: NMC SECTION 2-3.5, ADDED

Section 2-3.5 of the City of Novato Municipal Code is hereby added to read as follows:

2-3.5. Election Schedule for Councilmembers Elected By-District.

A. Councilmembers shall be elected in Council Districts 1, 3, and 5 beginning at the General Municipal Election in November 2019, and next at the General Municipal Election in November 2024 pursuant to Novato Municipal Code 2-3.2, and every four years thereafter.

B. 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 THREE:

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 FOUR:

The City Council finds that the proposed amendments to the Novato 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 FIVE:

This ordinance was introduced on May 14, 2019.

SECTION SIX:

This ordinance shall take effect 30 days after adoption.

SECTION SEVEN:

The City Clerk shall cause this ordinance to be published in accordance with applicable provisions of law, by either:

Publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

Publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

SECTION EIGHT:

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Novato, held on the 14th day of May, 2019, and duly passed and adopted at a Regular Meeting of said City Council held on the 21st day of May, 2019, by the following vote:

AYES: DREW, EKLUND, FRYDAY, ATHAS, LUCAN

NOES: NONE.

ABSENT: NONE.

ABSTAIN: NONE.



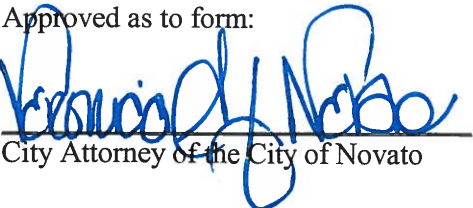
Mayor of the City of Novato

Attest:



City Clerk of the City of Novato

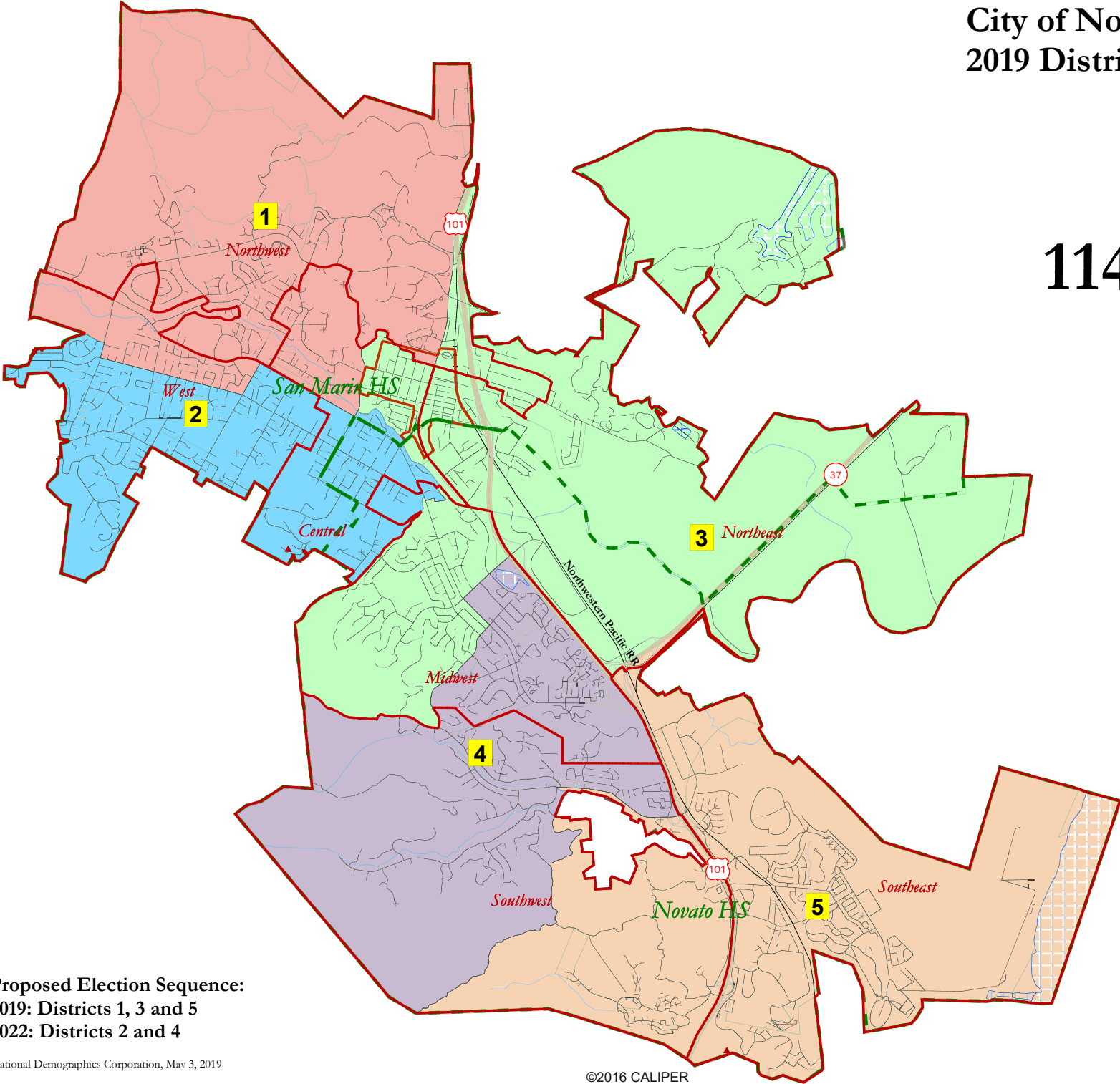
Approved as to form:



City Attorney of the City of Novato

City of Novato 2019 Districting

114



Proposed Election Sequence:
 2019: Districts 1, 3 and 5
 2022: Districts 2 and 4

National Demographics Corporation, May 3, 2019

Map layers	
	114
	Census Block
	Landmark Area
	Water Area
	Railroad
	River
	Streets
	Landmark Point
	Novato
	Downtown
	High School Zones
	IdentityReportArea

City of Novato - Map 114

District		1	2	3	4	5	Total
<u>Ideal</u>	Total Pop	10,878	10,620	10,544	9,989	9,873	51,904
10,381	Deviation from ideal	497	239	163	-392	-508	1,005
	% Deviation	4.79%	2.30%	1.57%	-3.78%	-4.89%	9.68%
Total Pop	% Hisp	15%	17%	23%	23%	29%	21%
	% NH White	72%	72%	66%	63%	56%	66%
	% NH Black	2%	3%	2%	3%	5%	3%
	% Asian-American	9%	7%	7%	9%	8%	8%
Citizen Voting Age Pop	Total	8,586	8,367	8,058	6,737	5,923	37,671
	% Hisp	11%	6%	12%	10%	15%	11%
	% NH White	81%	83%	76%	74%	68%	77%
	% NH Black	1%	2%	5%	2%	5%	3%
	% Asian/Pac.Isl.	7%	8%	6%	12%	10%	8%
Voter Registration (Nov 2016)	Total	7,320	6,580	6,386	5,912	5,133	31,331
	% Spanish-Surnamed	7%	9%	10%	8%	11%	9%
	% Asian-Surnamed	3%	3%	4%	4%	4%	4%
	% Filipino-Surnamed	1%	1%	1%	1%	1%	1%
	% NH White est.	85%	84%	79%	83%	74%	81%
	% NH Black	1%	2%	4%	3%	6%	3%
Voter Turnout (Nov 2016)	Total	6,448	5,769	5,498	5,168	4,422	27,306
	% Spanish-Surnamed	7%	8%	9%	7%	10%	8%
	% Asian-Surnamed	3%	3%	3%	4%	4%	3%
	% Filipino-Surnamed	1%	1%	1%	1%	1%	1%
	% NH White est.	86%	85%	80%	84%	75%	82%
	% NH Black	1%	2%	4%	3%	6%	3%
Voter Turnout (Nov 2014)	Total	3,965	3,510	3,366	2,972	2,571	16,384
	% Spanish-Surnamed	6%	5%	5%	6%	6%	5%
	% Asian-Surnamed	3%	2%	2%	4%	4%	3%
	% Filipino-Surnamed	1%	1%	1%	1%	1%	1%
	% NH White est.	87%	90%	88%	88%	85%	88%
	% NH Black est.	1%	1%	2%	2%	3%	2%

Total population data from the 2010 Decennial Census. Citizen Voting Age Pop. data from the 2012-2016 American Community Survey and Special Tabulation 5-year data.