

URGENCY ORDINANCE NO. 4297

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, ADDING DIVISION 6 TO ARTICLE V (BOARDS AND COMMISSIONS) OF CHAPTER 2 (ADMINISTRATION) OF THE POMONA CITY CODE TO ESTABLISH AN INDEPENDENT REDISTRICTING COMMISSION TO DRAW CITY COUNCIL ELECTORAL DISTRICT BOUNDARIES BASED UPON THE 2020 DECENNIAL CENSUS

WHEREAS, City Charter section 202 provides that “the City is hereby divided into six (6) Council districts, to be defined by the City Council”;

WHEREAS, the current Council District Map was adopted in 1990, after the voters approved a Charter Amendment to increase the number of Council Districts from four to six;

WHEREAS, every 10 years following the United State Decennial Census, cities that elect their officers by districts or from districts are required to review the applicable Census data and consider whether adjustments to existing Council district boundaries are needed to keep those districts substantially equal in population based on the total population of residents of the City, as required by the U.S. Constitution, the Federal Voting Rights Act and other applicable Federal and State law;

WHEREAS, if the Census data indicates that adjustments are needed, the City is required to adjust Council district boundaries accordingly;

WHEREAS, the City Charter and the California Fair Maps Act (FMA) (Elections Code sections 21620 *et. seq.*) allow the City Council to review and, if necessary, adjust Council district boundaries;

WHEREAS, the City Council reviewed the 2000 Decennial Census data to consider whether realignment of Council District boundaries was warranted, and no realignment was pursued;

WHEREAS, the City Council commenced review of the 2010 Census data in November 2011 and continued through 2012. Any further consideration of District Map changes was deferred until after the November 8, 2012 election;

WHEREAS, it is a very difficult and a sometimes conflicting task for a City Council to consider realigning District Map boundaries; however, taking no action results in disproportionate local representation and places the City’s residents, neighborhoods and communities at risk of public health and safety impacts;

WHEREAS, the public health and safety of residents, neighborhoods and communities requires appropriate local representation illustrative of the City's population and cultural diversity;

WHEREAS, the 2020 Decennial Census data will provide the City with a new opportunity to realign the Council District Map boundaries, based upon the most up-to-date population and demographic data, and ensure the Council District Map meets all legal requirements of Federal and State laws;

WHEREAS, as an alternative to the City Council being tasked with redistricting, an independent redistricting commission is authorized to review the applicable Census data, hold public hearings to consider whether adjustments to existing Council district boundaries are needed, and to adopt a final district map which makes any adjustments to the Council districts, independent of the City Council;

WHEREAS, in addition, to ensure that redistricting is done every 10 years, the Pomona Charter Review Commission 2020 is considering proposing a City Charter amendment to establish an independent redistricting commission to perform these tasks every 10 years in lieu of the City Council;

WHEREAS, City Charter amendments require Pomona voter approval, and the next election date that a City Charter amendment can be placed on the ballot is the General Municipal election on November 8, 2022;

WHEREAS, with the Census data for the 2020 cycle becoming available later this year, the City will need to conduct the redistricting process during late 2021–early 2022 so that updated Council districts are in place for the next General Municipal election on November 8, 2022;

WHEREAS, as such, a City Charter amendment will not be in place soon enough to establish an independent redistricting commission to timely perform these redistricting tasks for the current 10-year cycle;

WHEREAS, therefore, the City Council desires to define Council districts under City Charter section 202 by establishing an independent redistricting commission so that the commission may perform these redistricting tasks in a timely manner for the current 10-year cycle;

WHEREAS, City Charter section 802 authorizes the City Council, by ordinance, to create “any other necessary boards or commissions, with appropriate guidelines”;

WHEREAS, City Charter section 801 sets forth the rules as to how members of “all appointive boards and commissions” within the City are to be appointed and removed by the City Council, their number and terms of service, vacancies filled, etc., which are incorporated into this ordinance;

WHEREAS, City Charter section 510(c) provides for the Council to declare an ordinance to be necessary for the immediate preservation of the public peace, health or safety; and.

WHEREAS, for the reasons stated in the above recitals and the actions herein, the Council wishes to declare this ordinance to be an urgency measure, which may be adopted immediately, subject to a 5/7 vote of those present.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. The above recitals for this Urgency Ordinance are true and correct and are hereby incorporated herein by this reference.

SECTION 2. Urgency Findings. Pursuant to City Charter Section 510(c), an Ordinance declared necessary for the immediate preservation of the public peace, health or safety becomes effective immediately upon adoption by a five-sevenths (5/7) vote of the City Council. The City Council hereby finds and declares that there is an urgent need to adopt the provisions of this ordinance in order to preserve public peace, health and safety and ensure legal deadlines can be met by immediately implementing the process for establishing an Independent Redistricting Commission for the purpose of redistricting in time for the November 8, 2022 General Municipal Election. Adoption of this urgency measure eliminates the immediate threats set forth below:

- A. There is a need to establish an independent redistricting commission in time to complete the realignment of Council District boundaries prior to commencement of the nomination period for candidates wishing to run in the November 8, 2022 General Municipal Election.
- B. If a new map is not adopted in a timely manner, there is the potential for challenge to the current Council District Map.
- C. In order to properly recruit for, review applications for, and empanel an independent redistricting commission in time to review and process the United States Census data and to adopt a redistricting map by applicable legal deadlines, the City must have local regulations in place to authorize and govern the activities of the independent redistricting commission by no later than March 1, 2021.

SECTION 3. The City Council of the City of Pomona hereby adds Division 6 to Article V (Boards and Commissions) of Chapter 2 (Administration) of the Pomona City Code to read as follows:

DIVISION 6. – INDEPENDENT REDISTRICTING COMMISSION

Sec. 2-821. Commission Established.

There is established the 2021 Pomona Independent Redistricting Commission, which shall be vested with the authority to redraw Council district boundaries as provided in this division.

- (b) The Commission shall:
 - (1) Be independent of Mayor and City Council control;
 - (2) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of Council district boundaries;
 - (3) Comply with the provisions in this division; and
 - (4) Conduct itself with integrity and fairness.
- (c) The Commission may:
 - (1) Adopt for itself rules of procedure not in conflict with this division; and
 - (2) Adopt rules and regulations for the interpretation and implementation of this division.

Sec. 2-822. Power and Duty of Commission to Adopt Council District Boundary Map.

- (a) Within one year of census-block-level population data from a regular United States decennial census being made available to the public, the Commission shall adopt a final map establishing new Council district boundaries and a final report explaining its decision. The final map shall include a precise map and written description of the boundaries of each Council district, as well as the future sequencing of Council elections to implement the final map. In the final report, the Commission shall explain the rationale for the Council district boundaries, including, at a minimum, an explanation of how the final map complies with the redistricting requirements and criteria in Section 2-826 of this division and a reasonable justification for any Council district boundary that does not comply with any redistricting criterion.
- (b) A Commission-adopted final map has the force and effect of law and is effective immediately upon adoption, unless on the date of adoption there are less than one hundred eighty (180) days until the next City election, in which case the final map shall not go into effect until after that election and after any applicable run-off election following that election.
- (c) If the Commission does not adopt a final map by the deadline in subsection (a), the City Council shall petition the Superior Court for an order prescribing new Council district boundaries in accordance with the redistricting criteria and requirements set forth in Section 2-826 and Elections Code section 21629.
- (d) Any territory that is annexed, consolidated, or otherwise attached to the City shall be allocated to a Council district pursuant to this subsection, effective upon the completion of such annexation, consolidation, or other proceedings. The City Clerk shall update the final map accordingly.
 - (1) If the territory's boundary is contiguous to the boundary of not more than one Council district, the territory shall be allocated to that Council district.

- (2) If the territory's boundary is contiguous to the boundaries of two or more Council districts, the territory shall be allocated to the Council district with which it shares the longest boundary.
- (3) If the territory's boundary is not contiguous with the boundary of any Council district, the territory shall be allocated to the closest Council district.

Sec. 2-823. Commission Organization.

- (a) The commission shall consist of seven (7) commissioners. Members of the Commission shall serve without compensation.
- (b) The term of office of each commissioner shall begin on or about June 1, 2021 and expires four years later.

Sec. 2-824. Commissioner Qualifications, Requirements and Post-Service Restrictions.

- (a) Each commissioner must be a resident of the City.
- (b) To the extent practicable, the following persons should not serve as a commissioner:
 - (1) A person who, or whose spouse, parent, sibling, child or in-law, within the eight (8) years immediately preceding the date of application to be on the commission, has been elected to or appointed to, or been a candidate for, City elective office;
 - (2) A person who, or whose spouse, within the eight (8) years immediately preceding the date of application to be on the commission; or whose parent, sibling, child or in-law, within the four (4) years immediately preceding the date of application to be on the Commission, has:
 - (A) served as an officer of, employee of, or paid consultant or contractor to a campaign committee or a candidate for City elective office;
 - (B) served as an officer of, employee of, or paid consultant or contractor to a political party or as an elected or appointed member of a political party central committee;
 - (C) served as a staff member, paid employee of, a consultant to, or who has contracted with, any currently serving City elected official;
 - (D) been a registered City lobbyist, or someone who was required to be a registered City lobbyist;
 - (E) contributed to any candidate for City elective office, in a single year,

Five Hundred Dollars (\$500) or more; or

- (F) served as a principal officer of an active campaign committee that has made expenditures on candidate elections for a City elective office.

(c) Within 30 days of appointment, an appointed commissioner shall file with the City Clerk a statement of economic interest (FPPC Form 700), or similar financial disclosure statement, as required under the City's conflict of interest code, and shall agree to the City's Code of Ethics and written ethics pledge.

(d) A commissioner shall not do any of the following:

- (1) Endorse, work for, volunteer for, or make a campaign contribution to, a candidate for City elective office while serving on the commission. A commissioner choosing to engage in such activity may resign at any time, including after the approval of a final map to ensure that the commissioner no longer serves if the commission is reconvened to redraw districts.
- (2) Be a candidate for City elective office or be appointed by the City Council to such office in lieu of an election if either of the following is true:
 - (A) less than five (5) years has elapsed since the date of the commissioner's appointment to the commission; or
 - (B) the election for that City office will be conducted using district boundaries that were adopted by the commission on which the commissioner served, and those district boundaries have not been subsequently readopted by a commission after the end of the commissioner's term.
- (3) For four (4) years commencing with the date of the commissioner's appointment to the commission:
 - (A) accept employment as a staff member of, or consultant to, a City elected official or candidate for City elective office; or
 - (B) receive a noncompetitively bid contract with the City.

Sec. 2-825. Commissioner Selection and Removal.

(a) The City Clerk shall initiate and publicize the application process to serve on the Commission. Applicants shall attest on the application, under penalty of perjury, that the information provided in the application is true.

(b) The City Clerk shall forward any applications received to the Mayor and each member of the City Council. The Mayor and each City Council member, pursuant to the

procedure set forth in Section 801 of the City Charter, shall select a commissioner and notify the City Clerk of the selection by the deadlines established by the City Clerk. The Mayor shall select a commissioner at-large and each of the six (6) Councilmembers shall, to the extent practicable, select a commissioner from his or her Council district. These seven (7) individuals shall serve as the commission. The Mayor and City Councilmembers, exercising their independent judgment, shall make these selections. The Mayor and City Councilmembers shall make each selection taking into consideration the applicant's ability to meet the requirements of Section 2-824, relevant analytical skills, familiarity with the city's neighborhoods and communities, ability to be impartial, and apparent ability to work cooperatively with other potential commissioners. The Commission members should reasonably reflect the City's diversity; provided that no quotas, formulas, or ratios may be applied for this purpose.

- (c) The Commission shall be fully established on or about June 1, 2021.
- (d) The City Council may remove a commissioner pursuant to Section 801(c) of the City Charter.
- (e) If a commissioner resigns or is removed from the commission, the appointing Mayor or City Council member shall appoint a replacement pursuant to the procedure set forth in Section 801 of the City Charter.
- (f) For purposes of this section, "diversity" includes, but is not limited to, racial, ethnic, gender, and sexual orientation diversity.

Sec. 2-826. Redistricting Requirements and Criteria.

- (a) The Commission shall draw its final map so that:
 - (1) Council districts are substantially equal in population as required by the U.S. Constitution, as based on the total population of residents of the City as determined pursuant to California Elections Code section 21621, or successor statute; and
 - (2) The final map complies with the U.S. Constitution; the Federal Voting Rights Act, the California Constitution; and any other requirement of federal or state law applicable to charter cities.
- (b) In addition to following the requirements of subsection (a), the Commission shall consider the following criteria when drawing the final map, in order of priority:
 - (1) To the extent practicable, council districts shall be geographically contiguous. Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous;

- (2) To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A “community of interest” is a population that shares common social, cultural or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates;
 - (3) Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city;
 - (4) To the extent practicable, and where it does not conflict with the preceding criteria, council districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations;
 - (5) Geography and topography – Districts should respect major topographic and geographic features of the City;
 - (6) All district lines should correspond to census blocks in order to preserve the validity of data and avoid arbitrary boundaries;
 - (7) District numbering and election sequencing should remain constant for as many voters as possible; and
 - (8) Other Commission-adopted criteria that do not conflict with the other requirements and criteria listed in this section.
- (c) Council district boundaries shall not be drawn for the purpose of favoring or discriminating against a political party.
- (d) The Commission shall number each Council district such that, for as many residents as practicable, the number of the Council district they reside in remains the same.
- (e) The Commission shall not consider place of residence of any individual, including any incumbent or political candidate, in the creation of a map.
- (f) This Section 2-286 constitutes the comprehensive and exclusive criteria by which the commission shall evaluate and approve Council district maps under this division.

Sec. 2-827. Public Meetings, Public Comment and Redistricting Map Approval.

- (a) The Commission shall establish and implement an open meeting process for public input and deliberation that is promoted through an outreach program to solicit broad public participation in the redistricting process. Except as set forth herein, the Commission shall

comply with the Ralph M. Brown Act and all other applicable State and City requirements for open meetings.

(b) On or about July 1, 2021, the City Manager shall retain the services of a duly certified demographer/redistricting consultant for the Commission and shall appropriate the necessary funds to hire the demographer/consultant. The demographer/consultant shall review and analyze the City's population data contained in the most recent United States decennial census and shall prepare one or more draft electoral district maps for the Commission's consideration, which are in compliance with applicable Federal and State law for the drawing of such maps.

(c) Prior to adopting a final map, the Commission shall hold at least four (4) noticed public hearings, at which the public is invited to provide input regarding the composition of one or more council districts. At least one public hearing shall be held before the Commission draws a draft map or maps of the proposed council boundaries. The Commission may have city staff, the City's retained demographer or other consultant conduct one or more public workshops in lieu of holding a public hearing prior to drafting the map or maps. At least two public hearings shall be held after the Commission has drawn a draft map or maps of the proposed Council district boundaries. At least one public hearing or workshop shall be held on a Saturday, on a Sunday, or after 6 p.m. on a weekday Monday through Friday. At least one public hearing shall be a joint public hearing with the City Council as set forth in subsection (i) below. Public hearing buildings shall be accessible to persons with disabilities and the Council shall arrange for live translation of a public hearing or workshop in an applicable language if a request is made at least 72 hours before the hearing or workshop.

(d) Notwithstanding the provisions of the Brown Act, notice of the date, time and location for any public hearing or workshop shall be published on the City's Internet website for at least five (5) days before the hearing/workshop; provided that if there are fewer than 179 days until the City's next regular election, the Commission may publish the agenda on the City's Internet website for at least three (3) days before the hearing/workshop.

(e) The Commission shall establish and implement a process for accepting written public comment, either in writing or electronically, including the submission of draft maps and draft partial maps for the commission's consideration. Each draft map prepared by a member of the Commission, by City employees or consultants, or by members of the public shall be accompanied with information on the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed Council district, to the extent the City has that data.

(f) The City shall either record or prepare a written summary of each public comment and commission deliberation made at every public hearing or workshop held pursuant to this division. The City shall make the recording or written summary available to the public within two (2) weeks after the public hearing or workshop.

(g) A final map may not be adopted by the commission unless and until:

- (1) a proposed final map with substantially similar Council district boundaries has been adopted at least seven days earlier at a prior public hearing; and
 - (2) a proposed final map has been published on the City's Internet website for at least seven (7) days and made available to the public for at least seven (7) days prior to final adoption; provided that if there are fewer than 179 days until the City's next regular election, the proposed final map may instead be published on the City's Internet website for at least three (3) days.
- (j) The City shall establish, and maintain for at least 10 years after the adoption of new Council district boundaries, an Internet web page dedicated to redistricting. The web page may be hosted on the City's existing Internet website or another Internet website maintained by the City. The web page shall include, or link to, all of the following information:
- (1) A general explanation of the redistricting process for the City in English, Spanish and other any applicable language as defined under State law.
 - (2) The procedures for a member of the public to testify during a public hearing/workshop or to submit written testimony directly to the Commission in English, Spanish and any applicable language.
 - (3) A calendar of all public hearing and workshop dates. A calendar listing that includes the time and location of the public hearing or workshop satisfies the notice required by subsection (c).
 - (4) The notice and agenda for each public hearing and workshop.
 - (5) The recording or written summary of each public hearing and workshop.
 - (6) Each draft map considered by the Commission at a public hearing.
 - (7) The adopted final map of Council district boundaries.

SECTION 4. Effective Date. This Urgency Ordinance is adopted, pursuant to the authority set forth in City Charter section 510 (c) and shall become effective immediately upon adoption by the City Council by a 5/7 vote of those present.

SECTION 5. CEQA. The City Council finds that the adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15378(b)(5) in that it is not a "project" under CEQA, and is an organizational or administrative activity of the City that will not result in direct or indirect physical changes in the environment.

SECTION 6. Severability. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Ordinance, which can be implemented

without the invalid provisions, and to this end, the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have adopted this Ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 7. Certification. The City Clerk shall certify to the passage of this Urgency Ordinance, causing it to be posted as required by law and it shall become effective immediately upon adoption.

PASSED, APPROVED AND ADOPTED this 1st day of February, 2021.

ATTEST:

CITY OF POMONA:

Rosalia A. Butler, MMC, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Sonia Carvalho, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF POMONA)

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Urgency Ordinance was duly adopted at the regular meeting of the City Council of the City of Pomona held on February 1, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Rosalia A. Butler, MMC
City Clerk