

04-30-2020

ORDINANCE NO. 1356

05-14-2020

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM DESERT, CALIFORNIA, ADDING SECTION 2.38.040 TO CHAPTER 2.38, TO THE PALM DESERT MUNICIPAL CODE RELATING TO ELECTION OF CITY COUNCIL MEMBERS BY DISTRICTS AND RANKED CHOICE VOTING.**

**WHEREAS**, the City Council of the City of Palm Desert, California ("City Council") has determined that it is in the best interest of the City to shift from its current at large election system to a by district election for members of the City Council using ranked choice voting; and,

**WHEREAS**, the City held its first and second community meeting on January 15, 2020, and February 12, 2020, respectively, regarding the process and purpose of transition from at-large to by-district election system; and,

**WHEREAS**, the City held its first and second public hearings without maps to gather public input on the composition of zones on February 13, 2020, and February 27, 2020, respectively; and,

**WHEREAS**, the City held its third and fourth public hearings to discuss the process of defining district boundaries and preparing maps on March 12, 2020, and March 26, 2020, respectively; and,

**WHEREAS**, on April 16, 2020, the City Council conducted its fifth public hearing and adopted the NDC7 map as the districting map for the City; and,

**WHEREAS**, the City continues to engage in public outreach by posting updates and information on [www.representpd.org](http://www.representpd.org), Facebook and NextDoor, and through traditional media, mass mailings, and distribution of informational bulletins to faith-based organizations and schools.

**NOW, THEREFORE, IT SHALL BE ORDAINED** by the City Council of the City of Palm Desert, California, as follows:

**SECTION 1. Recitals.** The City Council of the City of Palm Desert, California, hereby finds that the foregoing recitals are true and correct and are incorporated herein as substantive findings of this Ordinance.

**SECTION 2. Amendment to Municipal Code.** Palm Desert Municipal Code Section 2.38.040 *Election of City Council* of Chapter 2.38 *General Municipal Elections* is hereby added as follows:

**"Section 2.38.040. Election of City Council.**

A. **Definitions.** The following definitions apply to this Section:

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“By district” as used in this Section shall mean election of members of the City Council by voters of the district alone.

“Geographical area making up the district” shall mean the district.

- B. Number of Districts. Pursuant to Government Code section 34871(a), the City of Palm Desert is divided into two (2) council districts.
- C. Boundaries and Numbering of Each District. Descriptions of the boundaries of each district and their numbering are as shown on the attached **Exhibit A** along with a map entitled “**City of Palm Desert District Map,**” a copy of which shall be on file in the City Clerk’s office.
- D. Election of City Council. Members of the City Council shall be elected “by districts” from two districts as provided herein. One of the districts, including approximately twenty percent (20%) of the city’s residents, would encompass the Civic Center Core and elect one (1) Council member. The second district would include the remainder of the City (about eighty percent (80%) of the residents) and elect four (4) Council members. Except as provided in Subsection F, entitled *Transition to District Elections*, a Council member of either district must live in that district and must be a registered voter in that district to be eligible to hold office for that district. Only voters who live in a district shall be eligible to vote in the election for Council member(s) of that district.
- E. Amendment of District Boundaries. Pursuant to Elections Code section 21601, as it may be amended, the City Council shall adjust the boundaries of any or both of the districts following each decennial federal census. Using the census as a basis, the City Council shall adjust the boundaries in compliance with all applicable provisions of law.

At the time of any annexation of territory to the City, the City Council shall designate, by resolution adopted by a vote of at least a majority of the City Council, the contiguous district to which the annexed territory shall be a part and shall amend the district boundaries if necessary in accordance with Elections Code section 21603, as it may be amended.

Pursuant to Elections Code section 21606, the term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected, whether or not that council member is a resident within the boundaries of the district as adjusted. At the first election for council following adjustment of the boundaries of the districts, a person meeting the requirements of Government Code section 34882 shall be elected to the City Council for each district under the readjusted district plan that has the same district number as a district whose incumbent’s term on the council is due to expire.

- F. Transition to District Elections. In 2020, one council member shall be elected by District 1 and two council members shall be elected from District 2. In 2022, two

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council members shall be elected from District 2. Terms of office shall be four years. Each incumbent Council member elected at large shall be allowed to complete the term for which they are elected regardless of the district of residency so long as they otherwise remain eligible to hold the office and have not been removed for cause or elected to another office.

**SECTION 3. Amendment to Municipal Code.** Palm Desert Municipal Code Section 2.38.050 *Ranked Choice Voting* of Chapter 2.38 *General Municipal Elections* is hereby added as follows:

### **"2.38.050 Ranked Choice Voting**

#### **A. General Provisions**

1. Ranked choice voting is a method that allows voters to rank candidates for elected office in order of preference. Elections conducted by ranked choice voting are tabulated in rounds, as specified in this Section.

2. For purposes of this Section, the following terms have the following meanings:

(a) "Batch elimination" means the simultaneous defeat of two or more continuing candidates because it is mathematically impossible for those candidates to receive enough votes to become designated as elected before being designated as defeated.

(b) "Continuing candidate" means a candidate who has not yet been designated as elected or defeated.

(c) "Election threshold" means the number of votes sufficient for a candidate to be elected in a multi-seat contest. The election threshold equals the total votes counted in the first round of tabulation, divided by the sum of one plus the number of offices to be filled, then adding one, disregarding any fractions. Winning threshold =  $((\text{Total votes cast})/(\text{Seats to be elected}+1)) + 1$ , with any fraction disregarded. The Secretary of State may approve alternate formulas to calculate the election threshold as long as any alternate formula produces a threshold that is no greater than the total votes counted in the first round of tabulation divided by the number of offices to be filled  $((\text{Total votes cast})/(\text{Seats to be elected}))$ , nor no smaller than the total votes counted in the first round of tabulation divided by one more than the number of offices to be filled, then adding one, disregarding any fractions  $((\text{Total votes cast})/(\text{Seats to be elected}+1) + 1)$ .

(d) "Elimination batch" means a group of two or more candidates who can be simultaneously defeated through batch elimination because it is mathematically impossible for those candidates to be elected.

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(e) "Highest-ranked continuing candidate" means the ranking on a voter's ballot with the lowest numerical value for a continuing candidate, i.e., 2<sup>nd</sup> is lower than 3<sup>rd</sup>, and equals a higher rank.

(f) "Inactive ballot" means a ballot that does not contain a continuing candidate, or that has reached an overvote, making the ballot unable to be transferred to another continuing candidate.

(g) "Multiseat election" means an election in which two or more candidates can be designated as elected in a single contest to fill multiple seats in the same publicly elected office. This may also be referred to as a multi-winner election. Multiseat elections using ranked choice voting may be referred to as single transferable vote.

(h) "Overvote" means an instance in which a voter has ranked more than one candidate at the same ranking.

(i) "Ranking" means the number assigned to a candidate that establishes the order in which a ballot is transferred to that candidate. The ranking with the lowest numerical value indicates the voter's highest-ranked continuing candidate, with the rankings increasing in numerical value for the voter's lower-ranked continuing candidates.

(j) "Seat" means an elected position occupied by one person, one or more of which form a publicly elected office.

(k) "Skipped ranking" means a voter has left a ranking order unassigned but ranks a candidate at a subsequent ranking order.

(l) "Surplus" or "surplus fraction" means a number equal to the quotient of the difference between an elected candidate's vote total and the election threshold, divided by the candidate's vote total (or  $(V-T)/V$ , in which "V" is the elected candidate's vote total and "T" is the election threshold), rounded down to four decimal places, ignoring any remainder.

(m) "Transfer value" means the proportion of a vote that a ballot will contribute to its highest-ranked continuing candidate. Each ballot begins with a transfer value of 1. If a ballot contributes to the election of a candidate under paragraph 2.38.050(B)(4)(b)(2), it receives a new transfer value.

3. (a) A ballot that does not contain a continuing candidate shall count as an inactive ballot.

(b) If a ballot contains a skipped ranking, the ballot shall be transferred to the highest-ranked continuing candidate.

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(c) If a ballot contains an overvote, it shall count as an inactive ballot when the overvote is reached.

4. If two or more candidates are tied with the fewest number of votes and cannot be defeated through batch elimination, the candidate to be defeated shall be determined by lot.

5. If a special election to fill one or more vacancies with ranked choice voting is consolidated with an election to elect one or more other members of the elected body to full terms using ranked choice voting to create a single, multiseat election, the full terms shall be awarded to the candidates declared elected first, and the vacancies awarded to the candidates declared elected last. If two or more candidates are declared elected in the same round, the candidates with larger surpluses shall be considered elected before the candidates with smaller surpluses, in the order of the size of the surplus. If two or more candidates that are declared elected in the same round have equal surpluses, the order of their election shall be determined by lot.

### **B. Vote Counting**

1. This Subsection establishes the procedures for electing candidates in multiseat elections using ranked choice voting.

2. A ballot shall allow voters to assign a different ranking to every candidate, as well as to write-in candidates. If the city's voting equipment cannot feasibly accommodate that number of rankings on the ballot, the elections official (the "elections official" is the City Clerk of the City of Palm Desert) may limit the number of choices a voter may rank to the maximum number allowed by the equipment.

3. In an election conducted by ranked choice voting, the elections official shall provide ballot instructions that make clear the proper voting procedures for voting in a ranked choice voting election.

4. In a multiseat election conducted by ranked choice voting, tabulation proceeds in rounds as follows:

(a) If, in the initial tabulation, the number of continuing candidates is less than or equal to the number of seats to be filled, then all continuing candidates are elected and tabulation is complete. Otherwise, tabulation proceeds to an additional round as described in paragraph (2) of subdivision (b).

(b) An additional round of tabulation shall proceed as follows:

(1) Each ballot shall count, at its current transfer value, for the highest-ranked continuing candidate on that ballot. If the number of elected candidates or the sum of the number of elected candidates and the number of continuing candidates is equal to the number of seats to be filled, then all

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continuing candidates are designated as elected, and tabulation is complete. Otherwise, the tabulation proceeds pursuant to paragraph (2).

(2) If any continuing candidate has a number of votes greater than or equal to the election threshold for the contest, that candidate shall be designated as elected. Each ballot counting for an elected candidate is assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the elected candidate, rounded down to four decimal places and ignoring any remainder. If each of two or more candidates has a number of votes greater than or equal to the election threshold for the contest at the same time, the surpluses may be distributed simultaneously or in rounds in which the largest surplus is distributed first. Each candidate elected under this paragraph is deemed to have a number of votes equal to the election threshold for the contest in all future rounds and a new round begins pursuant to paragraph (1).

(3) If no candidate is elected pursuant to paragraph (2), then, if batch elimination is used and any candidates qualify for an elimination batch, any candidates in the elimination batch are defeated through batch elimination. Otherwise the candidate with the fewest votes is defeated and votes for the defeated candidates shall be transferred to each ballot's next-ranked continuing candidate and a new round begins pursuant to paragraph (1).

5. (a) Jurisdictions using ranked choice voting may eliminate multiple candidates through batch elimination. If batch elimination is used, candidates shall be eliminated in batches as described in paragraph (3) of subdivision (b) of Section 103.

(b) A continuing candidate is in the elimination batch if the number of elected and continuing candidates with more votes than that candidate is greater than or equal to the number of seats to be filled, and it is mathematically impossible for that candidate to be elected for any of the following reasons:

(1) The candidate has fewer votes than any other continuing candidate.

(2) The candidate's current vote total plus the sum of current votes for continuing candidates with fewer votes would not be enough to equal or surpass the continuing candidate with the next highest current vote total.

(3) The candidate has a lower current vote total than a continuing candidate described in paragraph (2).

(c) If a candidate is defeated through batch elimination, votes for that candidate shall be transferred to each ballot's next-ranked continuing candidate.

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**C. Reporting.**

1. For purposes of this Section, the following terms have the following meanings:

(a) "Ballot report" means a report that lists all of the following for each ballot counted in the tabulation:

- (1) The candidate or candidates indicated at each ranking.
- (2) The precinct in which the ballot was cast.
- (3) Whether the ballot was cast by mail.

(b) "Summary report" means a report that lists all of the following:

- (1) The number of ballots counted.
- (2) The votes received by each candidate in each round of the tabulation.
- (3) The cumulative number of inactive ballots.

(4) Any additional information the jurisdiction chooses to include, such as the cumulative number of inactive ballots that were counted as inactive for any of the following reasons:

- (A) The ballot reached an overvote.
- (B) All candidates on the ballot were designated as elected or defeated.

(c) "Comprehensive report" means a report that, for each precinct, lists all of the information required in a summary report.

2. (a) An elections official shall publish a summary report for the final tabulation of the official canvass in conjunction with the certified statement of the results. The elections official shall also publish at least one of the following reports for the final tabulation of the official canvass:

- (1) A comprehensive report.
- (2) A ballot report.

(b) A report generated pursuant to this section shall reflect the vote count at the point when the votes have been counted toward each continuing candidate but before the transfer of elected candidates' surplus or candidates have been subsequently designated as defeated. The report shall also reflect each ballot counted as an inactive ballot as having the number of votes equal to the ballot's transfer value.

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(c) A ballot report generated pursuant to this section shall not permit the order in which the votes were cast in each precinct to be reconstructed. An overvote ranking shall be reported without reporting to which candidates the ranking was assigned.

(d) If the elections official determines that tabulation of all rounds is not feasible on election night, the elections official may provide the contest tabulation report totals for only the first round of tabulation or only a tally of highest-ranked continuing candidates in the initial tabulation.

(e) For a contest that is tabulated with a voting system, the elections official shall do all of the following:

(1) Tabulate the results as soon as the elections official determines it is feasible after the close of the polls, and publish the corresponding summary report.

(2) Tabulate the results for the last preliminary results on election night and publish a corresponding summary report.

(3) Publish the corresponding ballot report whenever the results of a tabulation is published, except if tabulation is limited pursuant to subdivision (b).

(f) This section does not prohibit an elections official from including additional information in any report.

3. An elections official shall promptly post a report made available to the public on the official's internet website. A ballot report made available pursuant to this Section shall be provided in a plain text electronic format and need not be published by other means. If an elections official does not have an internet website, the elections official shall promptly make the report available to the public by other means and shall notify the public of the report's location through a notice prominently displayed in an appropriate location in their office.

**D. Definitions.**

1. For purposes of this chapter, the following terms have the following meanings:

(a) "Additional supported language" means a language for which the City is required to provide voting materials and assistance under the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.) or for which the Secretary of State has determined that it is necessary to provide facsimile ballots at a precinct within the jurisdiction pursuant to subdivision (c) of California Elections Code § 14201.

(b) "Additional supported language community" means a community that speaks an additional supported language.



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2. (a) the City shall conduct a voter education and outreach campaign before each election conducted pursuant to this Section, until the conclusion of the second general election conducted in this manner. A campaign conducted pursuant to this Section shall include public meetings and public service announcements through different media, including media serving additional supported language communities, if available, to familiarize voters with that election method. Materials and information disseminated as part of the campaign shall be provided in all additional supported languages and shall be accessible to individuals with disabilities.

(b) the City shall, in collaboration with the county elections official, develop a plan describing how it will conduct the voter education and outreach campaign required by this section. The plan shall include all of the following information:

(1) How the City will use media, which may include digital media, newspapers, radio, and television, to inform voters about an upcoming election.

(2) What information will be publicly available on the elections official's internet website.

(3) What information will be included in the sample ballot and vote by mail materials.

(4) How the City will conduct direct outreach to voters, including voters with disabilities.

(5) How the City will have a community presence to educate voters, including voters with disabilities.

(6) How the City will educate voters within each additional supported language community.

(c) Before finalizing its plan, the City shall publish a draft plan and hold, at least 10 days after publication of its plan, at least one regular public meeting to discuss the plan. The shall also make a good faith effort to invite each of the following to at least one of those public meetings:

(1) Representatives, advocates, and other stakeholders representing each additional supported language community.

(2) Representatives from the disability community and community organizations and individuals that advocate on behalf of, or provide services to, individuals with disabilities.

(d) All materials provided by the voter education and outreach campaign, including materials provided on the internet website of the elections official, sample ballots and vote by mail materials, and materials provided through direct outreach

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and community presence, shall be provided in the additional supported languages and shall be accessible to individuals with disabilities.

(e) If multiple jurisdictions within the same county are conducting ranked choice voting elections, the jurisdictions may combine or coordinate their voter education plans and voter education and outreach campaigns.

(f) The City may partner or coordinate resources with nongovernmental organizations to conduct its voter education and outreach campaign.”

**E. Operative Date.**

This section shall be operative for elections commencing November 2022 in light of the 2020 public health crisis.

**SECTION 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

**SECTION 5. Certification and Publication.** The City Clerk of the City of Palm Desert shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under California Government Code Section 36933.

**SECTION 6. CEQA.** The City Council finds that adoption of this Ordinance is not a “project,” as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

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**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Palm Desert on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
GINA NESTANDE, MAYOR

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
RACHELLE D. KLASSEN, CITY CLERK  
CITY OF PALM DESERT, CALIFORNIA

\_\_\_\_\_  
ROBERT W. HARGREAVES  
CITY ATTORNEY

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State of California )  
County of Riverside ) s.s.  
City of Palm Desert )

I, Rachelle D. Klassen, City Clerk, hereby certify that the foregoing is a true copy of Ordinance No. \_\_\_\_\_, introduced at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2020, and duly adopted by the City Council of the City of Palm Desert, California at a regular meeting thereof held the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Rachelle D. Klassen, City Clerk

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**EXHIBIT A**

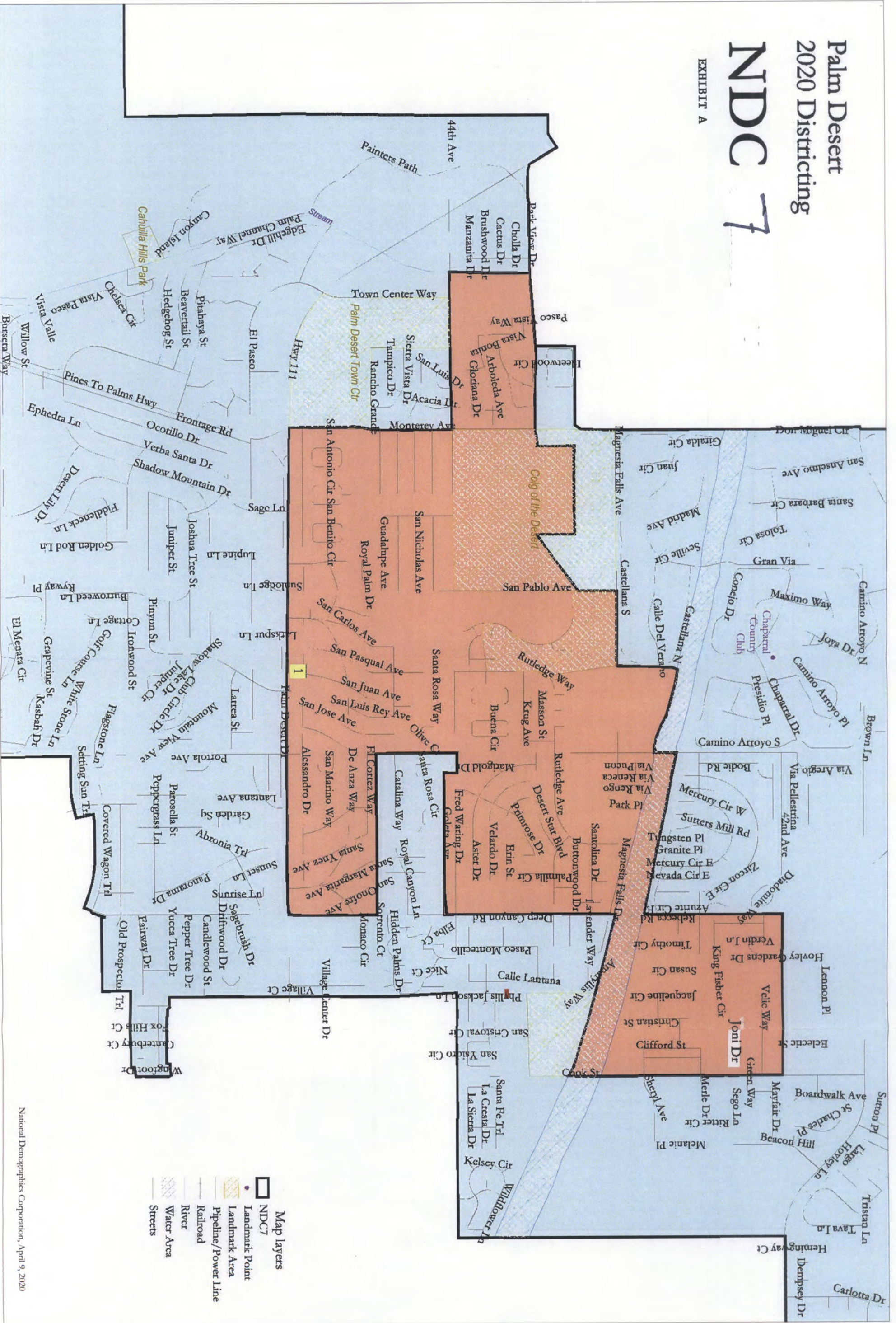
**PALM DESERT DISTRICT MAP**

[The Palm Desert District Map selected by the City Council at its meeting of April 16, 2020, known as "NDC7".]

# Palm Desert 2020 Districting

# NDC 7

EXHIBIT A



City of Palm Desert - NDC Draft 7					
District		Remainder	1	Total	
	Total Pop	38,605	9,838	48,443	
	Deviation from ideal	-37	149	186	
	% Deviation	-0.39%	1.54%	1.92%	
Total Pop	% Hisp	15%	54%	23%	
	% NH White	78%	39%	70%	
	% NH Black	2%	2%	2%	
	% Asian-American	4%	3%	4%	
Citizen Voting Age Pop	Total	32,315	6,399	38,715	
	% Hisp	12%	46%	17%	
	% NH White	81%	45%	75%	
	% NH Black	2%	2%	2%	
Voter Registration (Nov 2018)	% Asian/Pac.Isl.	4%	5%	4%	
	Total	22,669	3,576	26,245	
	% Latino est.	13%	30%	15%	
	% Spanish-Surnamed	12%	27%	14%	
	% Asian-Surnamed	1%	1%	1%	
	% Filipino-Surnamed	1%	1%	1%	
Voter Turnout (Nov 2018)	% NH White est.	82%	65%	80%	
	% NH Black	2%	3%	2%	
	Total	16,560	2,279	18,840	
	% Latino est.	10%	24%	12%	
	% Spanish-Surnamed	9%	22%	11%	
	% Asian-Surnamed	1%	1%	1%	
Voter Turnout (Nov 2016)	% Filipino-Surnamed	1%	0%	1%	
	% NH White est.	85%	71%	84%	
	% NH Black	2%	4%	2%	
	Total	18,726	2,574	21,300	
	% Latino est.	11%	26%	13%	
	% Spanish-Surnamed	10%	23%	12%	
ACS Pop. Est.	% Asian-Surnamed	1%	2%	1%	
	% Filipino-Surnamed	1%	1%	1%	
Age	% NH White est.	84%	68%	82%	
	% NH Black est.	2%	3%	2%	
	Total	40,667	10,869	51,536	
Immigration	age0-19	14%	26%	17%	
	age20-60	39%	49%	41%	
	age60plus	47%	25%	42%	
Language spoken at home	immigrants	18%	26%	19%	
	naturalized	50%	43%	48%	
	english	81%	55%	76%	
	spanish	12%	35%	17%	
Language Fluency	asian-lang	3%	5%	3%	
	other lang	4%	4%	4%	
	Speaks Eng. "Less than Very Well"	5%	18%	7%	
	hs-grad	56%	57%	56%	
Education (among those age 25+)	bachelor	23%	16%	22%	
	graduatedegree	16%	11%	15%	
	child-under18	13%	27%	15%	
Household Income	Pct of Pop. Age 16+	employed	48%	56%	50%
	income 0-25k	21%	26%	22%	
	income 25-50k	21%	22%	21%	
	income 50-75k	19%	22%	19%	
	income 75-200k	30%	26%	30%	
Housing Stats	income 200k-plus	9%	3%	8%	
	single family	71%	63%	70%	
	multi-family	29%	37%	30%	
	rented	35%	53%	37%	
	owned	65%	47%	63%	
Total population data from the 2010 Decennial Census.					
Surname-based Voter Registration and Turnout data from the California Statewide Database.					
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2013-2017 American Community Survey and Special Tabulation 5-year data.					