



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

City of Folsom to Explore By-District Elections

The City of Folsom is considering transitioning from existing at-large elections to by-district elections for Folsom City Councilmembers.

Since the City of Folsom was incorporated in 1946, the city has elected its Councilmembers through an at-large election system. Under this system, registered Folsom voters elect the five City Councilmembers regardless of where the candidates reside in the city. Under by-district elections, the city is divided into five districts, and each voter within a district may cast one vote for a candidate residing within that district.

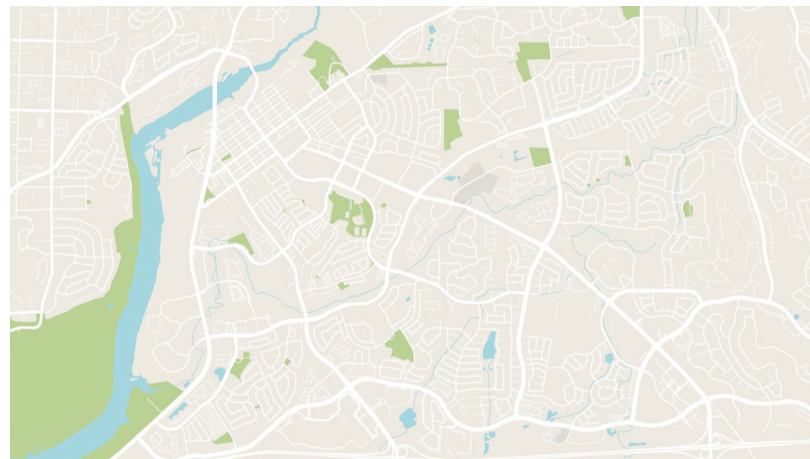
In February 2020, the city received a petition from the Folsom Area Democratic Club and numerous Folsom residents to begin the process to change City Council elections from at-large to by-district. In late October, the city received a letter from the petitioners' attorney alleging that Folsom's current at-large method of election may be in violation of the California Voting Rights Act (CVRA). On January 20, 2021, the City of Folsom was served with a CVRA lawsuit filed by the petitioners' attorney representing Hari Shetty, Kavita Sood, and Neighborhood Elections Now.

Under the CVRA, public agencies can be sued when an at-large election system is alleged to have impaired the ability of a protected class to elect candidates of their choice or their ability to influence the outcome of an election. "Protected class" is defined in the CVRA as a class of voters who are members of a race, color, or language minority group. Folsom is among hundreds of cities, special districts, and school districts throughout the state to receive such letters, which is a prerequisite under the CVRA prior to filing a lawsuit.

The state legislature established a very low threshold for plaintiffs to win a CVRA lawsuit. To date, no public agency has successfully defended a legal challenge to remain in an at-large voting system. No proof of discriminatory intent or history of discrimination is necessary for a plaintiff to prevail. The costs to defend a CVRA challenge can be tremendously high; in some cases, well into several millions of taxpayer dollars. If the city does not transition to a by-district election system and loses the lawsuit, the court is required to implement by-district elections and award attorney's fees and litigation expenses to the plaintiff.

While there has been no finding that the City of Folsom has violated the CVRA or any other law protecting Folsom residents' right to vote, the city has an opportunity under the CVRA to voluntarily transition to by-district elections and avoid a costly lawsuit. The Folsom City Council, on January 12, 2021, directed a public information initiative to educate the community about the CVRA and the issue of by-district elections.

Residents are encouraged to learn about the issue, read answers to frequently asked questions, view legal documents, and provide feedback on the City of Folsom website at www.folsom.ca.us/districtelections.



Frequently Asked Questions

WHAT IS THE CITY OF FOLSOM'S CURRENT ELECTION SYSTEM?

The City of Folsom currently has an at-large election system, which means that registered Folsom voters elect the five City Councilmembers regardless of where the candidates reside in the city.

WHAT ARE BY-DISTRICT ELECTIONS?

If transitioned to a by-district election system, the city would be divided into five districts, and each voter within a district may cast one vote for a candidate residing within that district.

WHY IS THE CITY OF FOLSOM CONSIDERING BY-DISTRICT ELECTIONS?

In February 2020, the city received a petition from the Folsom Area Democratic Club and numerous Folsom residents to begin the process to change City Council elections from at-large to by-district. In October 2020, the city received a demand letter from attorney Scott Rafferty, representing Neighborhood Elections Now, the Bay Area Voting Rights Initiative, the Folsom Area Democratic Club, and a number of registered voters in Folsom having legal standing to sue the city under the California Voting Rights Act (CVRA), which is a prerequisite under the CVRA prior to filing a lawsuit. On January 20, 2021, the City of Folsom was served with a CVRA lawsuit filed by the petitioners' attorney representing Hari Shetty, Kavita Sood, and Neighborhood Elections Now.

Public agencies can be sued under the CVRA when their at-large election system is alleged to have impaired the ability of a protected class to elect candidates of their choice or their ability to influence the outcome of an election. "Protected class" is defined in the CVRA as a class of voters who are members of a race, color, or language minority group. The threshold for plaintiffs to win a CVRA lawsuit is extremely low; no proof of discriminatory intent or past history of discrimination is necessary for a plaintiff to prevail. Thus far, no public agency has successfully defended a CVRA lawsuit, even after spending millions of their taxpayer dollars defending the lawsuit.

Folsom is among hundreds of cities, special districts, and school districts throughout the state to receive CVRA demand letters. Under the CVRA, the city has an opportunity to voluntarily transition to by-district elections and avoid a costly lawsuit.

WHAT DID THE FOLSOM CITY COUNCIL DECIDE?

On January 12, 2021, the Folsom City Council conducted a public meeting and considered a proposed Resolution of Intent to transition to by-district elections. After hearing input and feedback from members of the public, the City Council continued the matter off-calendar without making a decision, and directed a public information initiative to educate the community about the CVRA and the issue of by-district elections.

HOW HAVE OTHER CITIES RESPONDED TO THE THREAT OF LITIGATION UNDER THE CVRA?

California cities, special districts, and school districts that have transitioned to by-district elections have done so largely due to legal challenges brought under the CVRA, including the cities of Citrus Heights, Elk Grove, and Roseville, and the Folsom Cordova Unified School District. The San Juan Unified School District is currently in a lawsuit filed under the CVRA. To date, no public agency has successfully defended a legal challenge to remain in an at-large voting system.

WHAT ARE THE POTENTIAL FISCAL IMPACTS OF A CVRA LEGAL CHALLENGE?

If the City of Folsom does not transition to a by-district election system and loses the lawsuit, the court is required to implement by-district elections and award attorney's fees and litigation expenses to the plaintiff.

The costs to defend a CVRA challenge can be tremendously high; in some cases, well into several millions of taxpayer dollars.

A few examples of costs paid by cities to defend a CVRA challenge:

City of Santa Monica: \$5+ million
City of Palmdale: \$4.7 million
City of Modesto: \$3 million
City of Highland: \$1.1 million
City of Whittier: \$1 million
City of Santa Barbara: \$600,000

IF THE CITY COUNCIL DECIDES TO TRANSITION TO BY-DISTRICT ELECTIONS, HOW MANY DISTRICTS WILL BE CONSIDERED IN FOLSOM?

If the City Council decides to make the transition, the Council will consider maps that include five Council districts.

HOW WILL CREATING ELECTION DISTRICTS AFFECT ME?

If approved, registered voters in the City of Folsom will have the opportunity to vote for a candidate for City Council who lives in their district. Registered voters will not be able to vote for councilmember candidates from districts in which they do not reside.

No councilmember's term will be cut short; all current councilmembers will be allowed to serve out their four-year term. However, when a councilmember's term ends, and that councilmember resides in the same district as an incumbent whose term is not yet over, that councilmember will not be able to run for City Council until the incumbent occupying the seat for that district is up for re-election.

WHAT ARE THE CRITERIA FOR CREATING ELECTION DISTRICTS?

District boundaries must be substantially equal in population, and to the extent practicable the City Council is required to use the criteria in the following order of priority when creating districts:

- 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.
- The geographic integrity of any local neighborhood or local community of interest should be respected in a manner that minimizes division. A "community interest" is a population that shares common social 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.
- 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.

- Council districts shall be drawn to encourage geographic compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.

HOW CAN I PARTICIPATE IN THE DECISION-MAKING PROCESS?

The city is in the process of informing the community about the districting issue and encourages all residents to participate in a community discussion.

In the event the City Council decides to make the transition to by-district elections, the process will include five public hearings to receive community feedback on the proposed districts within a compressed 90-day timeframe mandated under the CVRA.

The City of Folsom is committed to extensive public outreach throughout the process. If the Folsom City Council decides to transition to by-district elections, it is of utmost importance that Folsom residents participate and provide feedback during public hearings on the composition of proposed election districts for City Council seats.

WHAT IS THE TIMELINE FOR THE CHANGE?

In order to protect public health and safety during the period when the State Public Health Officer and other public health officials have determined that it is necessary to engage in physical distancing to minimize the spread of COVID-19, California Governor Gavin Newsom has temporarily suspended the timelines for the districting process until further notice. The City Council conducted a public meeting January 12, 2021, to consider a proposed Resolution of Intent to transition to by-district elections, and after hearing input and feedback from members of the public, the Council continued the matter off-calendar and provided direction to staff for public engagement on this issue. Once the Governor lifts the timeline suspension, the city will have roughly 90 days to complete the transition process.

IF THE CITY COUNCIL DECIDES TO MAKE THE TRANSITION, WHEN WILL THE NEW CITY COUNCIL DISTRICTS TAKE EFFECT?

If the City Council decides to make the transition, the city anticipates that the by-district election system for electing future Folsom City Councilmembers could begin with the November 2022 General Municipal Election.



FOLSOM
DISTINCTIVE BY NATURE

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Folsom, CA 95630

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The City of Folsom seeks public feedback
about the issue of at-large or by-district elections.

YOUR NAME _____

ARE YOU A REGISTERED VOTER IN THE CITY OF FOLSOM Yes No

WHICH NEIGHBORHOOD DO YOU RESIDE IN (e.g., Natoma Station, Briggs Ranch, the Parkway, etc.)

DO YOU PREFER TO ELECT FOLSOM CITY COUNCILMEMBERS AT-LARGE OR BY-DISTRICT?

With an **at-large election**, voters can vote for any candidate residing anywhere in the City of Folsom. This is how Folsom voters currently elect their City Councilmembers.

With a **by-district election**, five geographic districts will be created in the city, and voters can only vote for candidates residing in their designated district.

SELECT ONE At-Large Elections By-District Elections Undecided

COMMENTS _____

SIGNATURE _____ **DATE** _____

Please send written comments to the City of Folsom, Attention: Office of the City Attorney, 50 Natoma Street, Folsom, CA 95630. Comments can be emailed to attydept@folsom.ca.us. As part of the public input process, feedback received will be presented to the Folsom City Council at a future City Council meeting.



STAY INFORMED

District Elections Webpage and
Frequently Asked Questions:
www.folsom.ca.us/districtelections

WEEKLY E-NEWSLETTER

www.folsom.ca.us/enews

FACEBOOK

www.facebook.com/CityofFolsom

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CONTACT

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