# ORDINANCE NO. 1324

## AN ORDINANCE OF THE CITY OF FOLSOM ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FIVE COUNCIL DISTRICTS PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010, AND ADDING NEW SECTIONS TO CHAPTER 2.06 OF THE <u>FOLSOM MUNICIPAL CODE</u> TO PROVIDE FOR CITY COUNCIL ELECTION DISTRICTS

**WHEREAS**, the City of Folsom currently elects its five City Councilmembers 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 Councilmember 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 their representative for that district will be; and

**WHEREAS**, on October 30, 2020, the City received a letter from attorney Scott Rafferty asserting that the City's at-large electoral system violated the California Voting Rights Act and threatening litigation if the City declined to adopt by-district elections; and

**WHEREAS**, while Mr. Rafferty's letter did not contain any evidence of a violation, the cost of defending against a claim under the California Voting Rights Act is extremely high, no public agency has ever successfully defended such a claim, and spending such an expense would severely burden the City's resources and curtail the City's ability to provide essential services to Folsom residents; and

**WHEREAS**, Section 34886 of the Government Code permits the City Council to adopt an ordinance to change the City's method of election to a "by-district" system without being required to submit the ordinance to the voters for approval, subject to certain conditions; and

**WHEREAS**, the City wishes to avoid litigation and to take advantage of the provisions of Government Code section 34886, and therefore, pursuant to California Government Code section 34886, it is declared that this change in the method of electing members of the Folsom City Council is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Elections Code sections 14025 *et. seq.*); and

**WHEREAS**, at its regular meeting on July 17, 2021, the City Council adopted Resolution No. 10575, a resolution of intent to transition to a by-district election system pursuant to Section 10010 of the Elections Code; and

**WHEREAS**, pursuant to Section 10010 of the Elections Code, a city 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 considered, the City held public hearings on September 14, 2021, and October 12, 2021, at which time input from the public on the proposed composition of the districts were invited and heard; and

WHEREAS, on and prior to holding the third public hearing on January 11, 2022, pursuant to Section 10010 of the Elections Code, the City published and made available for public review draft maps for consideration by the City Council; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a third public hearing on January 11, 2022, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, after the close of the public hearing on January 11, 2022, the City Council provided input as to the draft maps, published and made available for public review eight "focus" draft maps selected by the City Council for further consideration pursuant to Section 10010 of the Elections Code; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a fourth public hearing on February 8, 2022, where the public provided input regarding the content of the "focus" maps, and the City Council worked on a "preferred" map with the City's demographer and discussed the potential sequence of elections; and

WHEREAS, at the end of the public hearing on February 8, 2022, the City Council voted to continue the hearing to February 15, 2022, in order to solicit further community comments and feedback on the draft "preferred" map prepared by the City's demographer with input from the City Council and the public on February 8, 2022; and

WHEREAS, at the continued public hearing on February 15, 2022, the City Council selected two draft "preferred" maps prepared by the City's demographer with input from the City Council and the public ("Preferred Map 1" and "Preferred Map 2"), and voted to further continue the hearing to February 22, 2022, in order to solicit further community comments and feedback on the two draft "preferred" maps; and

WHEREAS, following public comments and further discussions, the City Council at the end of the continued fourth public hearing on February 22, 2022, selected "Preferred Map 2" as the final "preferred" map; and

WHEREAS, pursuant to Section 10010 of the Elections Code, the City held a fifth public hearing on March 8, 2022, where the public provided input prior to the City Council adopting a final district map and considering an ordinance that would establish a by-district election system; and

**WHEREAS,** it is the position of the City Council that map "Preferred Map 2", attached hereto as Exhibit A, will serve the best interests of the City of Folsom and be consistent with the California Voting Rights Act and applicable laws; and

**WHEREAS**, map identified as "Preferred Map 2", attached hereto as Exhibit A, is selected and adopted by the City Council as the final district map in the creating of a by-district election system in the City of Folsom.

**NOW, THEREFORE**, the City Council of the City of Folsom does hereby ordain as follows:

## SECTION 1  PURPOSE

The purpose of this Ordinance is to enact, pursuant to Government Code Section 34886, an ordinance providing for the by-district election process to elect members of the Folsom City Council in five (5) single-member districts pursuant to California Elections Code Section 10010.

## SECTION 2  DECLARATION

Pursuant to Government Code section 34886, it is declared that this change in the method of electing members of the City Council of the City of Folsom is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Elections Code Sections 14025 *et. seq.*)

## SECTION 3  CITY COUNCIL DISTRICTS

The City of Folsom is hereby divided into five (5) City Council Districts with the boundaries of the districts as shown in Exhibit A attached hereto and incorporated herein by reference.

## SECTION 4  ADDITION TO CODE

Sections 2.06.090, 2.06.100, and 2.06.110 are hereby added to the Folsom Municipal Code to read as follows:

### 2.06.090       City council by-district electoral system.

Pursuant to Government Code Section 34886 and the schedule established in Section 2.06.100 of this Chapter, commencing with the November 2022, General Municipal Election, each member of the Folsom City Council shall be elected by district in five (5) single-member districts.  The City's by-district electoral system shall be conducted in accordance with California Government Code Section 34871(a).

**2.06.100    Establishment of city council electoral districts.**

A.  Pursuant to Section 2.06.090 of this Chapter, members of the Folsom City Council from Council Districts 1, 3, and 5 shall be elected on a by-district basis as that term is defined in Government Code Section 34871(a), beginning with the General Municipal Election in November 2022 and every four years thereafter, as such Council Districts may be amended from time to time pursuant to applicable law.

B.  Pursuant to Section 2.06.090 of this Chapter, members of the Folsom City Council from Council Districts 2 and 4 shall be elected on a by-district basis as that term is defined in Government Code Section 34871(a), beginning with the General Municipal Election in November 2024 and every four years thereafter, as such Council Districts may be amended from time to time pursuant to applicable law.

C.  Except as provided in subsection (E) below, all candidates for the City Council and all appointed and elected Councilmembers shall fully comply with applicable law including but not limited to Government Code Section 34882 and Elections Code Section 10227.  Termination of residency in a Council District by a Councilmember shall create an immediate vacancy for that Council District unless a substitute residence within that District is established within thirty (30) calendar days after the termination of residency.

D.  Only the registered voters residing in the Council District may vote for candidates running for City Council in that District.

E.  Notwithstanding any other provision of this Section, each of the Councilmembers in office at the time this Chapter 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 at the time this Chapter takes effect may be filled by the City Council from the City at-large pursuant to applicable law until the expiration of that at-large term.  At the end of the term of each Councilmember, that member's successor shall be elected on a by-district basis in the Council Districts established herein and as subsequently reapportioned as provided by law.  A vacancy in a Councilmember office elected by-district shall be filled by a person qualified to hold the office in that vacant Council District pursuant to applicable law.

**2.06.110    Map of council districts.**

The City Clerk shall maintain a map of the City showing the current boundaries and numbers of each Council District as they are established and may be amended from time to time by ordinance of the City Council.  The map of the initial Council Districts is attached hereto as Exhibit A and incorporated herein by reference.

**SECTION 5  SCOPE**

Except as set forth in this Ordinance, all other provisions of the <u>Folsom Municipal Code</u> shall remain in full force and effect.

**SECTION 6  NO MANDATORY DUTY OF CARE**

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 7  SEVERABILITY**

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof.  The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

**SECTION 8 EFFECTIVE DATE**

This Ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This Ordinance was introduced and the title thereof read at the regular meeting of the City Council on March 8, 2022, and the second reading occurred at the regular meeting of the City Council on March 22, 2022.

On a motion by Council Member _____ seconded by Council Member _____, the foregoing Ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 22$^{nd}$ day of March, 2022 by the following roll-call vote:


AYES:       Councilmember(s):

NOES:       Councilmember(s):

ABSENT:     Councilmember(s):

ABSTAIN:    Councilmember(s):

_____

Kerri M. Howell, MAYOR

ATTEST:

_____

Christa Freemantle, CITY CLERK

Folsom 2022 Districting

Preferred Map 2

Map layers
- Preferred Map 2
- Landmark Area
- Water Area
- Pipeline/Power Line
- Railroad
- River
- Streets
- Landmark Point

Council Members & Election Sequence

District 1 - Mike Kozlowski (2022)

District 2 - Rosario Rodriguez (2024)

District 3 - Sarah Aquino, YK Chalamcherla (2022)

District 4 - (Open) (2024)

District 5 - Kerri Howell (2022)

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