

Town of Apple Valley
Resolution No. 2019-04

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF APPLE VALLEY

I, LA VONDA M-PEARSON, Town Clerk for the Town of Apple Valley, Apple Valley, California, do hereby certify that Resolution No. 2019-04, duly and regularly adopted by the Town Council at a meeting thereof held on the 15th day of February, 2019 by the following vote:

AYES: Council Members Emick, Leon, Mayor Pro Tem Nassif.

NOES: None.

ABSTAIN: None.

ABSENT: Council Member Bishop, Mayor Cusack.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Apple Valley, California, this 15th day of February, 2019.

LA VONDA M-PEARSON, CMC
TOWN CLERK

By:


Kiel Mangerino, Deputy

(SEAL)



RESOLUTION NO. 2019-04

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN
OF APPLE VALLEY DECLARING ITS INTENTION TO
TRANSITION FROM AT-LARGE TO DISTRICT-BASED
ELECTIONS PURSUANT TO CALIFORNIA ELECTIONS
CODE SECTION 10010 (e)(3)(A)**

WHEREAS, the Town Council of the Town of Apple Valley is an elected legislative and deliberative public body serving the citizens of the Town of Apple Valley; and

WHEREAS, the Town presently has an at-large election system (where the entire jurisdiction votes for each member of the public agency's governing body) rather than a by-district election system (where the jurisdiction is divided into districts and only voters within a given district vote for that district's representative); and

WHEREAS, in 2003, the California Voting Rights Act ("CVRA") became law; and

WHEREAS, the CVRA, in an attempt to prevent the disenfranchisement of protected classes of persons, establishes a low bar for attorneys seeking to force cities and other public entities to convert from at-large to by-district elections; and

WHEREAS, public agencies that have been sued under the CVRA have typically been forced to pay large sums to settle with plaintiffs' attorneys; and

WHEREAS, in late 2016, the California legislature adopted AB 350 amending Elections Code section 10010 to cap the attorneys' fees a prospective plaintiff may recover if a public agency adopts a resolution of intention to change to a by-district system of elections within 45 days of the receipt of a letter from that prospective plaintiff alleging a CVRA violation and then, following several procedural steps, adopts an ordinance transitioning to by-district elections within the next 90 days; and

WHEREAS, in 2018, the California legislature adopted AB 2123 again amending Elections Code section 10010 to permit the local agency and prospective plaintiff to enter into a written agreement to extend the 90-day period following the adoption of a resolution of intention to 180 days; and

WHEREAS, on January 2, 2019, the Town received a letter from Kevin Sherkman of Sherkman & Hughes, PC, alleging that the Town's at-large election system diluted the ability of certain protected classes of persons within the Town to elect candidates of their choice; and

WHEREAS, the deadline to adopt a resolution of intent under Elections Code section 10010 is February 16, 2019; and

WHEREAS, the Town Council desires to avoid the high costs and legal risks associated with a CVRA lawsuit; and

WHEREAS, the Town Council has determined that it is in furtherance of the purposes of the CVRA to transition from at-large to district-based elections; and

WHEREAS, the Town Council desires to declare its intention to adopt an ordinance pursuant to Government Code section 34886 transitioning from at-large to district-based elections for the next general municipal election, establish specific steps it will undertake to facilitate this transition, and establish an estimated time frame for doing so.

NOW, THEREFORE, THE APPLE VALLEY TOWN COUNCIL DOES HEREBY RESOLVE:

SECTION 1. The recitals stated above are true and correct and are incorporated herein by reference.

SECTION 2. Intention to Transition to a By-District Election System. The Town Council intends to adopt an ordinance, pursuant to Government Code section 34886 to transition the election of its Town Council Members from an at-large electoral system to a by-district system.

SECTION 3. Instructions Related to Transition. As close as possible to 90 days following the effective date of this Resolution, or 180 days if a formal agreement is reached with the potential plaintiff, taking into consideration the time required for public outreach and input, and the timeframes established by Elections Code section 10010, the following actions shall be taken by the Town and the Town Council in accordance with Elections Code section 10010 (a):

- (i) Conduct public outreach to explain the districting process and to encourage public participation;
- (ii) Before drawing a draft map or maps of the proposed district boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries as provided in Elections Code Section 10010;
- (iii) After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections, and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and
- (iv) Hold a public hearing at which the Town Council will consider an ordinance establishing district elections, including the adoption of a district boundary map and the sequence of the district elections.


SECTION 4. CEQA. Based upon the whole of the administrative record before it, the Town Council hereby finds that a transition from at-large to district-based elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of this Resolution is an organizational and administrative activity of the Town, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061(b)(3); 15378(b)(5).) In the event adoption of this Resolution does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) Further, none of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the San Bernardino County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Resolution.

SECTION 5. Severability. The provisions of this Resolution are severable and if any provision of this Resolution is held invalid, that provision shall be severed from the Resolution and the remainder of this Resolution shall continue in full force and effect, and not be affected by such invalidity.

SECTION 6. This Resolution shall become effective upon its adoption.

SECTION 7. The Town Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 15th day of February, 2019.



Mayor Pro Tem Scott Nassif

ATTEST:



La Vonda M-Pearson
Town Clerk