



TOWN OF FAIRFAX

STAFF REPORT

May 3, 2017

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager ^{GT}
Michele Gardner, Town Clerk

SUBJECT: Second Reading by Title Only and Adoption of an Ordinance Changing the Regular Election from November of Odd-Numbered Years to the Statewide General Election in November of Even-Numbered Years and Amending Chapter 2.04 of the Fairfax Town Code Pertaining to Municipal Elections by decreasing each councilmember's term by 12 months in 2017 and 2019

RECOMMENDATION

Waive second reading and read by title only and adopt the Ordinance of the Town Council of the Town of Fairfax Changing the Regular Election from November of Odd-Numbered Years to the Statewide General Election in November of Even-Numbered Years and Amending Chapter 2.04 of the Fairfax Town Code Pertaining to Municipal Elections.

BACKGROUND

The California Voter Participation Rights Act (also known as "SB 415") was signed into law last September by Governor Brown for the purpose of increasing voter turnout at local elections. It seeks to do so by requiring local governments to move their elections to coincide with regular statewide election dates, which are always in even-numbered years. For local governments that hold their regular elections in odd-numbered years, like Fairfax, the law provides that the local governing bodies may for this *one time* either increase or decrease the terms of elected officers by up to 12 months in order to switch to even-numbered years. The Act requires that the transition be fully implemented by November 8, 2022.

Fairfax currently holds staggered elections for its 5 councilmembers in odd-numbered years to elect 3 Councilmembers one year, and 2 Councilmembers two years later (along with the Town Treasurer and Town Clerk). All offices have standard 4-year terms. In November of 2017, three councilmembers' terms expire; in November of 2019, two councilmembers' (as well as the Town Treasurer's and Town Clerk's) terms expire.

DISCUSSION

At its April 25, 2017, special meeting, the Council introduced an ordinance to move the 2021 and 2023 elections to 2020 and 2022 by *decreasing* each councilmember's term by 12 months in 2017 and 2019. In other words, the Town will hold elections in 2017 and 2019, but the terms of the elected officials will be for 3 years, instead of the standard 4 years. Beginning with the November 2020 election, the terms for elected officials will return to the standard 4-year term.

Tonight is the second reading and adoption. If adopted, the ordinance would become effective immediately; however, it would become operative only upon approval by the Marin County Board of Supervisors. Therefore, the Clerk will forward the adopted ordinance to the County Clerk, and a copy to the Elections Department, with a request for approval by the Board of Supervisors at their May 23, 2017, regular meeting.

Within 30 days of the approval, the Clerk will send a Notice of Election Date Change to all Fairfax registered voters, detailing the changes in the date of local elections and the effect on officers' terms. In June, the Council will need to call for the 2017 election and request consolidation and election services from the County. The nominations period for candidates will open in mid-July.

FISCAL IMPACT

The Marin County Registrar of Voters has projected costs of odd-year elections beginning in November 2017 to be least \$4.00 to \$6.00 per registered voter, due to the number of agencies changing their election date to even-numbered years to comply with SB 415. In essence, with fewer agencies to share the costs, the cost for each agency increases.

The Registrar has projected costs of even-year elections, beginning in November 2018, to be on the lower end of the \$1.75 to \$3.00 range, due to the increasing number of local agencies, in addition to the federal, state and county agencies, who will share the costs.

The table below shows the estimated costs for Fairfax elections from 2017 to 2022, based on 5626 registered voters.

PROJECTED ELECTION COSTS

	2017	2018	2019	2020	2021	2022	6-year Total
5,626 voters	\$22,500 to \$33,800		\$22,500 to \$33,800	\$9,800 to \$17,000		\$9,800 to \$17,000	\$64,600 to \$101,600

For informational purposes, the elections in 2011 (one measure and Town Council, Town Clerk, Town Treasurer) and 2013 (one measure and Town Council) cost the Town approximately \$13,000 and \$8,000, respectively.

ATTACHMENT

Ordinance No. 807

ORDINANCE NO. 807

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
CHANGING THE REGULAR ELECTION FROM NOVEMBER OF ODD-NUMBERED
YEARS TO THE STATEWIDE GENERAL ELECTION IN NOVEMBER OF EVEN-
NUMBERED YEARS AND AMENDING CHAPTER 2.04 OF THE FAIRFAX TOWN
CODE PERTAINING TO MUNICIPAL ELECTIONS**

The Town Council of the Town of Fairfax does ordain as follows:

SECTION 1. FINDINGS. The Town Council of the Town of Fairfax hereby finds that:

A. The Town of Fairfax, California (the “Town”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

B. The California Voter Participation Rights Act (SB 415), effective January 1, 2018, provides that a public agency, including a city or town, cannot hold its regular election on any date other than a statewide election date if holding an election on a non-statewide election date results in a “significant decrease in voter turnout,” which is defined as at least 25 percent less than the average voter turnout within the public agency for the previous four statewide general elections; and

C. Currently, the Town holds its regular election on the first Tuesday after the first Monday in November of each odd-numbered year; and

D. The Town’s regular election date is not a statewide election date and voter turnout was on average approximately 43% lower in the last local election as compared to the past four statewide elections; and

E. State law allows a city or town to increase or decrease the terms of current municipal officers on a one-time basis by up to 12 months until their successors are elected and qualified, in order to match their terms with a changed regular election date (Elections Code § 10403.5); and

F. It is the intent and desire of the Town Council of the Town of Fairfax to change its regular election to the statewide general election, held in November of even-numbered years, to increase voter turnout and to ensure compliance with SB 415; and

G. This will achieve consolidation with the statewide election dates no later than November 8, 2022.

SECTION 2. MUNICIPAL ELECTION DATES AMENDED. Section 2.04.010, Municipal Elections, of the Fairfax Municipal Code is hereby amended and restated as follows:

“§ 2.04.010 MUNICIPAL ELECTIONS.

(A) Beginning with the November, 2020 election, all general municipal elections shall be held on the first Tuesday after the first Monday in November of even-numbered years and shall be consolidated with the statewide general election held on that day.”

SECTION 3. COUNCIL VACANCIES. Section 2.04.020, Council Vacancies, of the Fairfax Municipal Code is hereby amended to delete subsection (C) and is adopted and restated as follows:

“§ 2.04.020 COUNCIL VACANCIES.

(A) If a vacancy occurs on the Town Council, the Town Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy as provided by Cal. Gov’t Code § 36512(b).

(B) If the Town Council fills the vacancy by appointment, the person appointed shall hold office only until the date on which the town holds a special election, which shall immediately be called to fill the remainder of the term as permitted under of Cal. Gov’t Code § 36512(c)(3). The special election may be held either on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the town not less than 114 days from the call of the special election, as provided Cal. Gov’t Code § 36512(c)(3).”

SECTION 4. EFFECT ON ELECTED TOWN OFFICERS. In order to transition the Town’s general municipal election date from the current odd-year schedule to the even-year statewide general election dates, the Town Council hereby orders and resolves that there shall be a one-time adjustment to the terms of the elected Town officers, as follows:

(A) The terms of office for those prospective Town Councilmembers to be elected in November, 2017 shall each be for three (3) year terms, ending upon the certification of the November, 2020 election results.

(B) The terms of office for those prospective Town Councilmembers, the Town Clerk and the Town Treasurer elected in November, 2019 shall each be for three (3) year terms, ending upon the certification of the November, 2022 election results.

(C) Municipal officers elected to new terms in November, 2020, November, 2022 and in all future elections shall serve standard four-year terms.

SECTION 5. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or 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 Town 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 (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 6. CEQA. This Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because it is not a project within the meaning of 14 CCR § 15378 or alternatively, because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (14 CCR § 15061(b)(3)). The Ordinance implements changes to the timing of municipal elections that have no potential for direct or indirect changes to the environment.

SECTION 7. This Ordinance shall be effective immediately (Government Code § 36937(a)) and shall become operative upon approval by the Marin County Board of Supervisors (Elections Code § 1301). Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park.

SECTION 8. The Town Clerk shall transmit certified copies of this Ordinance to the Clerk of the Board of Supervisors and to the Office of the Registrar of Voters for the County of Marin.

SECTION 9. Pursuant to Elections Code Section 10403.5(e), within 30 days after the Ordinance becomes operative, the Town Clerk shall cause a notice to be mailed to all registered voters informing the voters of the change in election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected Town officeholders will be changed.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 25th day of April, 2017, and duly adopted at the next regular meeting of the Town Council on the 3rd day of May, 2017, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

John Reed, Mayor

ATTEST:

Michele Gardner, Town Clerk