



## **R** City of Lake Forest, At-Large City Council Elections Ordinance

Shall the Lake Forest ordinance authorizing the City Council to return to at-large (City-wide) City Council elections, with the understanding that doing so could lead to litigation and financial exposure in the millions of dollars under the California Voting Rights Act, be adopted?

### What your vote means

YES	NO
A "Yes" vote on Measure "R" <u>will approve</u> the Measure. Commencing with the November, 2020 election, any City Council seat that expires and is up for election will be elected at-large.	A "No" vote on Measure "R" <u>will not approve</u> the Measure. The City Council will continue to be elected by-district.

### For and against

FOR	AGAINST
Thomas R. Cagley Council Member	Jim Gardner Mayor, Lake Forest

Ballot Measures-RFull Text of Measure R  
City of Lake Forest

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LAKE FOREST, CALIFORNIA, REGARDING THE METHOD OF CITY COUNCIL ELECTIONS.

**WHEREAS**, in April, 2017, the City Council received a letter from Kevin Shenkman alleging that the City's at-large system is not in compliance with the California Voting Rights Act (CVRA) and threatening litigation and financial exposure if the City did not convert to by-district elections; and

**WHEREAS**, to avoid the potential threat of litigation and the resulting financial exposure, which could potentially be in the millions of dollars, on December 19, 2017, the City Council of the City of Lake Forest adopted Ordinance No. 301, changing the method by which City Council members are elected from at-large to by-district, commencing with the November 6, 2018 election; and

**WHEREAS**, several lawsuits are currently pending regarding the constitutionality of the CVRA under the United States Constitution as well as whether at-large elections are in violation of the CVRA when it can be shown that creation of districts cannot enhance a minority population's voting power because the minority population is dispersed throughout the community; and

**WHEREAS**, the City desires to return to electing its City Councilmembers at-large with the understanding that doing so prior to the invalidation of the CVRA could lead to litigation and financial exposure in the millions of dollars under the CVRA.

**NOW THEREFORE, THE PEOPLE OF THE CITY OF LAKE FOREST DO ORDAIN AS FOLLOWS:**

**SECTION 1.** Method of Elections. Section 2.05.030 of the Lake Forest Municipal Code is hereby amended to read as follows:

2.05.030. – AT-LARGE ELECTIONS.

(A) Members of the City Council of the City of Lake Forest shall be elected at-large.

(B) Notwithstanding any other provision of this Section, the Councilmembers in office at the time this Section takes effect shall continue in office until the expiration of the term to which he or she was elected. In the event a vacancy occurs before the expiration of the term of a Councilmember in office at the time this Section takes effect, a person who is appointed or elected by special election to fill such vacancy shall hold the office in accordance with State law.

**SECTION 2.** Severability. If any portion of this Ordinance is declared invalid by a court of law or other legal body with applicable authority, the invalidity shall not affect or prohibit the force and effect of any other provision or application of the Ordinance that is not deemed invalid. The voters of the City hereby declare that they would have circulated for qualification and/or voted for the adoption of this Section, and each portion thereof, regardless of the fact that any portion of the initiative may be subsequently deemed invalid.

**SECTION 3.** Effectiveness. To the fullest extent allowed by law, the provisions of this Ordinance shall prevail over, and supersede, all other provisions of the Municipal Code and any ordinances, resolutions or administrative policies of the City of Lake Forest which are in conflict with any provision of this Ordinance.

**SECTION 4.** Repeal and Amendment. This Section shall not be repealed or amended except by a measure approved by a majority of the electors voting on the issue at an election legally called for that purpose.

**SECTION 5.** Effective Date. This Ordinance shall take effect only if approved by a majority of the eligible voters of the City of Lake Forest voting at a General Municipal Election to be held on November 6, 2018, and shall only apply prospectively beginning with City Council member terms started after the November 6, 2018 election.

**SECTION 6.** Attestation. The Mayor is hereby authorized to attest to the adoption of this Ordinance by the People voting thereon on November 6, 2018, by signing where indicated below.



# Ballot Measures-R

## Impartial Analysis City of Lake Forest Measure R

Lake Forest Municipal Code Section 2.05.030 was adopted in 2017 to change the method for electing Lake Forest City Councilmembers from at-large to by-district, commencing with the November 6, 2018 election. "At-large" method means that all voters within the City of Lake Forest elect the City Councilmembers. "By-district" means that the City is divided into 5 districts and each City Councilmember must reside within a district and be elected only by voters residing within that district.

Measure "R" amends Section 2.05.030 to change the method for electing City Councilmembers from by-district back to at-large. A City Councilmember in office at the time of adoption of Measure "R" shall continue to hold office until the expiration of his or her term, after which time the seat would be elected at-large. Measure "R" was placed on the ballot by an ordinance of the Lake Forest City Council.

In April, 2017, the City Council received a letter from Kevin Shenkman alleging that the City's at-large system was not in compliance with the California Voting Rights Act (CVRA). The letter threatened litigation and financial exposure if the City did not change to by-district elections. The City Council thereafter adopted Ordinance No. 301 changing its method of election from at-large to by-district, and no lawsuit against the City was filed. Several lawsuits are currently pending regarding the constitutionality of the CVRA.

If Measure "R" is adopted, the City could be subject to litigation for violating the CVRA if it can be shown that racially polarized voting occurs in at-large elections for the Lake Forest City Council. The occurrence of racially polarized voting would be determined by a court of law by examining the results of elections in which at least one candidate is a member of a protected class. The CVRA prohibits the at-large method of election if it impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.

A "Yes" vote on Measure "R" will approve the Measure. Commencing with the November, 2020 election, any City Council seat that expires and is up for election will be elected at-large.

A "No" vote on Measure "R" will not approve the Measure. The City Council will continue to be elected by-district.

Measure "R" requires simple majority approval of the voters to pass.

**The above statement is an impartial analysis of Measure R. If you desire a copy of the measure, please call the elections official's office at (949) 461-3423 and a copy will be mailed at no cost to you.**

s/ Matthew E. Richardson  
City Attorney



## Argument in Favor of Measure R

Lake Forest was faced with litigation over at-large election of Council Members. In order to avoid costly litigation, districts were drawn and the 2018 election will be done by district. Many residents have expressed their opposition to district election as it dilutes their vote. If approved, this measure would return Lake Forest to at-large elections. Lake Forest does not have a record of discrimination. An African-American woman was elected to five terms on the Council, with the city demographics showing less than 2% of the population is African-American. The Hispanic population is less than 30%, and it would be impossible (not to mention illegal) to draw a district that would have a majority of this ethnic group. At-large elections provide citizens the opportunity to vote every two years for either two or three members of the Council, whereas district elections limit them to one vote. Another argument is that in the event of a recall, such as experienced in 2018, only residents within the district would have a vote. There is much to be said to oppose this as an especially egregious action by a Council Member would only be subject to 20 percent of the voters, whereas the actions would have impacted the City as a whole. Other concerns are that Council Members from districts would not be inclined to support or oppose issues outside their district. While district elections would be cheaper for candidates, it also makes it easier for special interests to control council seats. The City has faced this in the past, and it would be easier for special interests to gain control of the Council. Finally, good and qualified individuals may be limited or prevented from seeking office if they are in a district with an incumbent.

s/ Thomas R. Cagley  
Council Member

Ballot Measures-R**Argument Against Measure R**

This measure would force the city to spend unlimited amounts of money fighting a law firm that won dozens of cases, and never lost a case on the issue of the California Voting Rights Act (CVRA). Some cities lost \$7,000,000 ; many lost in excess of \$1,000,000. No city prevailed.

Regardless of your opinion about CVRA and district elections, the odds are stacked against us and this measure would compel us to spend ourselves into bankruptcy with few prospects of winning.

Why is this preposterous idea even being considered? Because there are City Council members who don't want us to be in districts because district elections are far less expensive – they require 1/5 as many flyers, mailers or signs. That means the average person can afford to compete for a Council seat. Right now elections in Lake Forest cost \$50,000 or more. Two Councilmen take money from special interests and developers and build up large bankrolls of special interest money to fund their campaigns. If we're in districts, campaigns will be far less expensive, removing the corrupting influence of special interest money and taking away their advantage.

District elections will also make Council members more accountable to their residents. Right now a few Council members do the work of everyone; some Council members do next to nothing. By making Council members accountable to the people in their districts, you'll learn pretty quickly who is/isn't carrying their load. But those Councilmen who are career politicians don't want to be accountable. They want to sit back, shake your hand, do nothing, and hope for election to the next political stage.

Whether you want district elections or not, fighting the CVRA is a losing battle, and one that could cost the City millions of dollars with few prospects of prevailing.

s/ Jim Gardner  
Mayor, Lake Forest