



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

File #: PH 24-044

DATE: October 1, 2024

TO: Mayor and City Council

FROM: City Attorney

SUBJECT

Public Hearing No. 5 to Select the Final Map Identifying District Boundaries, Provide Direction on the Sequence of District Elections Beginning in 2026, and Introduce an Ordinance to Amend the Hayward Municipal Code to Add Chapter Article 16 to Chapter 2, Establishing District-Based City Council Elections Beginning in 2026

RECOMMENDATION

That Council conducts public hearing number five, selects the final map identifying district boundaries, provides direction on the sequence of district elections beginning in 2026, and introduces an ordinance (Attachment II) amending the Hayward Municipal Code ("HMC") to add Article 16 to Chapter 2, establishing district-based City Council elections beginning in 2026.

SUMMARY

On April 16, 2024, the City Council adopted a resolution declaring its intent to begin the process of transitioning from at-large elections to district-based elections beginning with the 2026 election cycle. The election of the Mayor will continue to be conducted at-large. The transition process began with two public hearings required by Elections Code § 10010, to be held prior to the drawing of draft maps. Two additional hearings were held after draft maps were drawn, as also required by Elections Code § 10010. Those four hearings were held on May 14, 2024, May 28, 2024, August 13, 2024, and September 3, 2024, respectively. During these hearings, the City Council received input from the community regarding the composition of the proposed districts. During the September 3, 2024, hearing, the Council moved to advance Map 1 as the final map evidencing district boundaries, with modifications.

This will be the fifth public hearing on this matter. The Council will select the final map identifying the boundaries of six voting districts, identified by Numbers 1 through 6, which can be viewed at [Draft Maps | City of Hayward Districting Project \(maphayward.org\) <https://maphayward.org/draft-maps/>](https://maphayward.org/draft-maps/). The Final Map was developed by the demographer following Public Hearing No. 4 by incorporating feedback from the Council and the community. It was published on the City's website on September 6, 2024. The Council will also provide direction regarding the sequencing of district elections beginning in

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2026. Finally, the Council will introduce an Ordinance establishing a district-based election system beginning in 2026.

This transition process does not impact the upcoming November 2024 election.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Draft Ordinance
Attachment III	Proof of Public Hearing Publication
Attachment IV	Finalist Map Modified



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RECOMMENDATION

That Council conducts public hearing number five, selects the final map identifying district boundaries, provides direction on the sequence of district elections beginning in 2026, and introduces an ordinance (Attachment II) amending the Hayward Municipal Code (“HMC”) to add Article 16 to Chapter 2, establishing district-based City Council elections beginning in 2026.

SUMMARY

On April 16, 2024, the City Council adopted a resolution declaring its intent to begin the process of transitioning from at-large elections to district-based elections beginning with the 2026 election cycle. The election of the Mayor will continue to be conducted at-large. The transition process began with two public hearings required by Elections Code section 10010, to be held prior to the drawing of draft maps. Two additional hearings were held after draft maps were drawn, as also required by Elections Code section 10010. Those four hearings were held on May 14, 2024, May 28, 2024, August 13, 2024, and September 3, 2024, respectively. During these hearings, the City Council received input from the community regarding the composition of the proposed districts. During the September 3, 2024, hearing, the Council moved to advance Map 1 as the final map evidencing district boundaries, with modifications.

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Ordinance establishing a district-based election system beginning in 2026. This transition process does not impact the upcoming November 2024 election.

BACKGROUND

The City of Hayward currently utilizes an at-large election system for the Mayor and City Council members. This means that the voters from the entire City choose the Mayor and six (6) City Council members. A district-based election system is one in which the city is geographically divided into separate districts, each with one Council member who resides in the district and is chosen by the voters residing in that particular district.

On March 10, 2024, the City received a letter from attorney Scott Rafferty, which asserted that the City's at-large method of election could be in violation of the California Voting Rights Act (the "CVRA"). The CVRA allows a city to declare its intent to change to district-based elections and gives it 90 days within which to adopt districts. At the time it adopted its resolution of intent, the City's deadline for adoption of districts was July 15, 2024. However, state law also allows the parties to a CVRA complaint to extend the deadline by another 90 days, and on May 15, 2024, the parties agreed that the City would have until October 14, 2024 to adopt districts for use in the 2026 elections.

DISCUSSION

Public Hearing Timeline

Pursuant to Elections Code section 10010, the City was required to hold at least four public hearings in connection with the establishment of electoral districts. More specifically, the City was required to hold at least two public hearings over a period of no more than 30 days before any draft map(s) of proposed voting district boundaries were drawn. After all draft maps were drawn, the City was then required to publish at least one draft map and to hold two additional public hearings over a period of no more than 45 days, so the public could provide input on the content of the draft map(s) and proposed sequencing of elections.

The first two public hearings to receive input regarding composition of the proposed districts occurred on May 14, 2024 and May 28, 2024 respectively. A third public hearing was held on August 13, 2024, during which Council received additional community input and provided initial direction to the demographer regarding the preparation of draft district maps.

Three draft district maps were posted to the City's districting website on August 27, 2024, as required by state law. Copies of the staff reports, as well as video and audio recordings of these hearings, and links to the three draft maps are available for the public through the following link: [Schedule | City of Hayward Districting Project \(maphayward.org\)](https://maphayward.org)

At the fourth public hearing, held on September 3, 2024, the City Council received input from the community regarding the three draft district maps prepared by the demographer. Additionally, the demographer provided a PowerPoint presentation which is currently

available on the City's website and discussed the three draft district maps with Council. Following the presentation and discussion about the draft maps, the Council moved to advance draft Map 1, with modifications. The finalist map was published on the City's website on September 6, 2024 and can be viewed at [Draft Maps | City of Hayward Districting Project \(maphayward.org\)](https://www.cityofhayward.org/DocumentCenter/View/10000/Draft-Maps-City-of-Hayward-Districting-Project).

During this fifth hearing, the Council will, a) formally select the final map establishing the boundaries of six (6) voting districts; b) provide final direction on the sequencing of elections to create staggered terms of office; and, c) introduce an ordinance that will transition the City's election system from an at-large system to the district-based system beginning in 2026.

A final public hearing adopting the ordinance is tentatively scheduled for October 8, 2024, meeting the October 14, 2024 deadline to transition to district-based elections.

Districting Criteria

In creating the boundaries of the six districts, the process must comply with state and federally mandated criteria requiring each district to be as nearly equal in population as practicable and drawn in a manner that complies with the 14th Amendment, the State and Federal Voting Rights Act, and the criteria outlined in Elections Code section 21130.

All draft maps used in this process complied with the basic state and federal districting criteria. Additionally, the drafts maps incorporated public input, including submitted maps and Communities of Interest (COIs) and Neighborhoods. Districting is a process of constraints. Community members submitted dozens of proposed maps and communities of interest, but not all public input and all neighborhoods could be included and maintained in each map because population equality is the first legal criterion to consider. These draft maps laid out the districts in different ways to show how input could be accommodated. They could be modified within constraints established by law, based on input received during the public hearing.

Sequencing of Elections

The Mayor and members of the City Council currently serve staggered terms of office. The terms of Mayor Salinas, and Council Members Roche and Syrop expire in November 2026. The terms of Council Members Bonilla, Jr., Andrews, Zermeno, and Goldstein expire in November 2024. The Elections Code allows district elections to be sequenced to create staggered terms of office. In determining the sequence of elections, the City Council is required by state law to consider the purposes of the CVRA and to take into account the preferences expressed by members of the districts.

The first election under the new districts will be in November, 2026. Because state law prohibits cutting short the term of any member and because only two members' terms will expire in 2026, there will be elections held in two of the new districts in 2026 and four districts in 2028. As noted above, the CVRA provides that in deciding the sequence of

elections under the new districts, the Council shall give special consideration to the purposes of the CVRA and “shall take into account the preferences expressed by members of the districts.”

The purpose of the CVRA is to prohibit use of an at-large method of election that impairs the ability of a protected class to elect candidates of its choice or to influence the outcome of an election. Because the CVRA challenge against the City was brought on behalf of Asian American voters, Council could consider whether the purposes of the CVRA would be best met by allowing districts with large numbers of Asian American voters to have an election in 2026 or in 2028. Because turnout is often higher in presidential election years, an argument can be made for scheduling districts with higher numbers of the protected class in those years. There is also an argument, however, that it is better for such districts to be up at the first available election to avoid any further claims of vote dilution. The Council should seek public input on this issue before deciding on the sequencing for the first elections under the new plan. After receiving public comment on these issues and after consideration of the factors to be taken into consideration, staff will be in a position to advise on the districts to be prioritized in sequencing for 2026 and 2028.

Ordinance

The attached ordinance (Attachment II) would amend the Municipal Code by adding Article 16 to Chapter 2. The ordinance would establish six (6) City Council districts for the City of Hayward, as described in the final district map selected by the Council and establish the sequence in which the respective districts would be up for election, commencing in 2026. The specific election sequence will be incorporated into the ordinance based on the Council’s direction as part of the introduction process.

Community Outreach

The City conducted community outreach under the facilitation of City staff and consultant Tripepi Smith. The City established a website in May of 2024 ([Welcome | City of Hayward Districting Project \(maphayward.org\)](https://www.hayward-ca.gov/welcome-city-of-hayward-districting-project-maphayward.org)) to facilitate sharing information and gathering input on the drawing of district-election maps. The website shows the district maps and communities of interest maps that were submitted by community members over the past few months. The draft district maps prepared by the demographers are also posted to the website. Moreover, the final map selected by the City Council, with modifications, is posted to the website.

Community members can ask questions and provide input about the maps by calling (510) 583-4444 or by sending an email to districting@hayward-ca.gov.

Since the draft district maps were posted on the website, Tripepi Smith worked with City staff to call over 100 targeted community stakeholders to notify them of the opportunity to comment on the maps and to attend the September 3 Public Hearing. Additionally, the City has sent emails to the 62,573 subscribers of the City’s e-newsletter with information about the

draft maps and the public hearings in September and October. In addition to the public hearings, the City held a virtual workshop on June 11, 2024 and an in-person workshop on July 9, 2024 at Chabot College where interested community members could learn about the districting process. The City continued its outreach efforts as we moved toward Public Hearing No. 5.

Please note that Spanish, Mandarin, Vietnamese and Tagalog interpreters continue to be available at all public hearings upon request.

FISCAL IMPACT

Significant staff resources will be devoted to carrying out the process described in this report, including public outreach strategies. The City will also incur costs related to the engagement of outside legal counsel, the demographers and other consultants that may be necessary.

Prepared by: Michael Vigilia, Senior Assistant City Attorney
Amy Rothman, Deputy City Attorney

Recommended by: Michael Lawson, City Attorney

Approved by:



Dustin Claussen, Interim City Manager

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAYWARD ADDING ARTICLE 16 TO CHAPTER 2 OF THE HAYWARD MUNICIPAL CODE, ESTABLISHING DISTRICT-BASED CITY COUNCIL ELECTIONS; AND FINDING THAT THE ACTION IS EXEMPT FROM CEQA REVIEW

WHEREAS, the City of Hayward currently elects its Mayor and City Councilmembers using an at-large election system; and

WHEREAS, in the at-large election system, candidates may live in any part of the City and the Mayor and each Councilmember is elected by the voters of the entire City; and

WHEREAS, in a by-district election system, a candidate for City Council must live 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 will be; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code Section 34886, an ordinance providing for the election of the members of the City Council of the City of Hayward by district in six (6) single-member districts; and

WHEREAS, adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a “project” pursuant to the California Environmental Quality Act (“CEQA”), under Public Resource Code Section 21065 and CEQA Guidelines Section 15320, 15378, and 15061(b) (3) as there is no possibility that such action would cause either a direct, or reasonably foreseeable indirect, physical change in the environment; and

WHEREAS, the accompanying October 1, 2024 City Council staff report and attachments and exhibits thereto are hereby incorporated by reference as though fully set forth herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Article 16 is added to Chapter 2 of the Hayward Municipal Code to read in full as follows:

ARTICLE 16
BY-DISTRICT CITY COUNCIL ELECTIONS

SECTION 2-16.00 – Purpose. The City Council hereby declares that the change of method of electing members of this Council hereby enacted is being made in furtherance of the California Voting Rights Act of 2001.

SECTION 2-16.10 – Establishment of City Council Districts.

- (a) Six (6) City Council districts are hereby established in the City of Hayward. The boundaries and identifying number of each district shall be as described on the City Council District Map located at [hyperlink to map to be inserted here] and incorporated herein. To the extent there is a conflict between the descriptions contained in the Ordinance codified in this Article and the map incorporated herein, the map shall prevail.
- (b) If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts or the eligibility of candidates. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.
- (c) Elections shall take place, and Councilmembers shall be elected, “by-districts” as that term is defined in California Government Code Section 34871, meaning one member of the City Council shall be elected from each district, by the voters of that district alone.
- (d) The districts specified in subdivision (a) shall continue in effect until they are amended or repealed in accordance with law.

SECTION 2-16.20 – By-District Electoral System.

- (a) Pursuant to California Government Code Sections 34886 and 34871(c), Councilmembers shall be elected by-districts in six (6) single-member districts.
- (b) Except as provided in subdivision (c) hereof, the Councilmember elected to represent a district must live in that district and be a registered voter in that district, and any candidate for City Council must live in, and be a registered voter in the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code Section 34882 and Elections Code Section 10227.
- (c) A Councilmember in office at the time this Article takes effect shall continue in office until the expiration of the full term to which he or she was elected or appointed and until his or her successor is qualified.

ATTACHMENT II

- (d) Upon expiration of the full term of each Councilmember elected at-large, that Councilmember's successor shall be elected on a by-district basis in the districts established in Section 2-16.10 and as provided in Section 2-16.30. A vacancy in a Councilmember office elected by-district shall be filled according to law by a person qualified to hold the office, who lives in the district.
- (e) The terms of office of each Councilmember elected to the City Council pursuant to this Ordinance shall remain four (4) years as specified in the City Charter.
- (f) The method of electing the office of the Mayor at-large shall not be affected by the provisions of this Ordinance.

SECTION 2-16.30 – Sequence of District Elections.

- (a) Councilmembers from Districts ___ and ___ shall be elected beginning at the General Municipal Election in November 2026, and every four years thereafter.
- (b) Councilmembers from Districts ___, ___ and ___ shall be elected beginning at the General Municipal Election in November 2028, and every four years thereafter.

Section 2. California Environmental Quality Act. Adoption of this Ordinance is exempt from environmental review as the adoption of this Ordinance does not qualify as a "project" pursuant to the California Environmental Quality Act ("CEQA"), under Public Resource Code Section 21065 and CEQA Guidelines Section 15320, 15378, and 15061(b) (3) as there is no possibility that such action would cause either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 4. The effective date of this Article shall be thirty (30) days after its adoption by the City Council.

ATTACHMENT II

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ___ day of __, 2024, by Council Member _____,

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ___ day of _____, 2024, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

Daily Review

c/o Bay Area News Group-East Bay
800-595-9595

2050945

CITY OF HAYWARD/CITY CLERK
MIRIAM LENS
777 B ST.
HAYWARD, CA 94541

PROOF OF PUBLICATION

FILE NO. TransitionDistrictBasedElections

Daily Review

The Daily Review

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the Legal Advertising Clerk of the printer and publisher of The Daily Review, a newspaper published in the English language in the City of Hayward, County of Alameda, State of California.

I declare that the Daily Review is a newspaper of general circulation as defined by the laws of the State of California as determined by this court's decree, dated March 2, 1950, in the action entitled In the Matter of the Ascertainment and Establishment of the Standing of The Daily Review as a Newspaper of General Circulation, case number 221938. Said decree states that "'The Daily Review' has been established, printed, and published daily in the City of Hayward, County of Alameda, State of California, for one year or more next preceding the date of the filing of said petition; that it is a newspaper published for the dissemination of local and telegraphic news and intelligence of a general character and has a bona fide subscription list of paying subscribers; ... [] [and] THEREFORE, ... 'The Daily Review' is hereby determined and declared to be a newspaper of general circulation [within the meaning of Government Code §§ 6000 et seq.]" Said decree has not been revoked, vacated or set aside.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

09/20/2024

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Rio Vista, California.
On this 20th day of September, 2024.



Public Notice Advertising Clerk

Legal No.

0006853752

NOTICE OF PUBLIC HEARING HAYWARD CITY COUNCIL

NOTICE IS HEREBY GIVEN that on Tuesday, October 1, 2024, a public hearing will be held in person at City Hall, Council Chambers (777 B Street, 2nd Floor, Hayward, CA) and virtually via the Zoom platform. The meeting will be broadcast live on Comcast TV Channel 15, the City's website at <https://hayward.legistar.com/Calendar.aspx> and YouTube stream at <https://www.youtube.com/user/cityofhayward>.

Description of Public Hearing Item: The City Council will conduct a fifth public hearing per Elections Code Section 10010 during its special City Council meeting on October 1, 2024, at 5:30 p.m., or as soon as possible thereafter as the matter can be heard, at which time the City Council will conduct a public hearing to select a final map establishing City Council districts for elections beginning in 2026. The City Council will also discuss the sequence in which district seats will be up for election beginning in 2026. An ordinance establishing a district-based election system will also be introduced for consideration by the Council.

Public members are invited to attend this meeting in person or virtually to provide input regarding the composition of the yet to be formed districts. Public members requiring this notice or supporting materials in another alternative format or language, or who require accommodations or interpretation for the meeting, please contact the City Clerk's Office 48 hours prior to the meeting at (510) 583-4400 or cityclerk@hayward-ca.gov

For additional information, please contact: City Clerk, City of Hayward, 777 B Street, 4th Floor, Hayward, California 94541, (510) 583-4400, cityclerk@hayward-ca.gov; or visit <https://maphayward.org> or submit written comments to districting@hayward-ca.gov

A copy of the public hearing report may be reviewed at the City's website at <https://hayward.legistar.com/Calendar.aspx>. Staff reports are available the Friday before the public hearing date noted above.

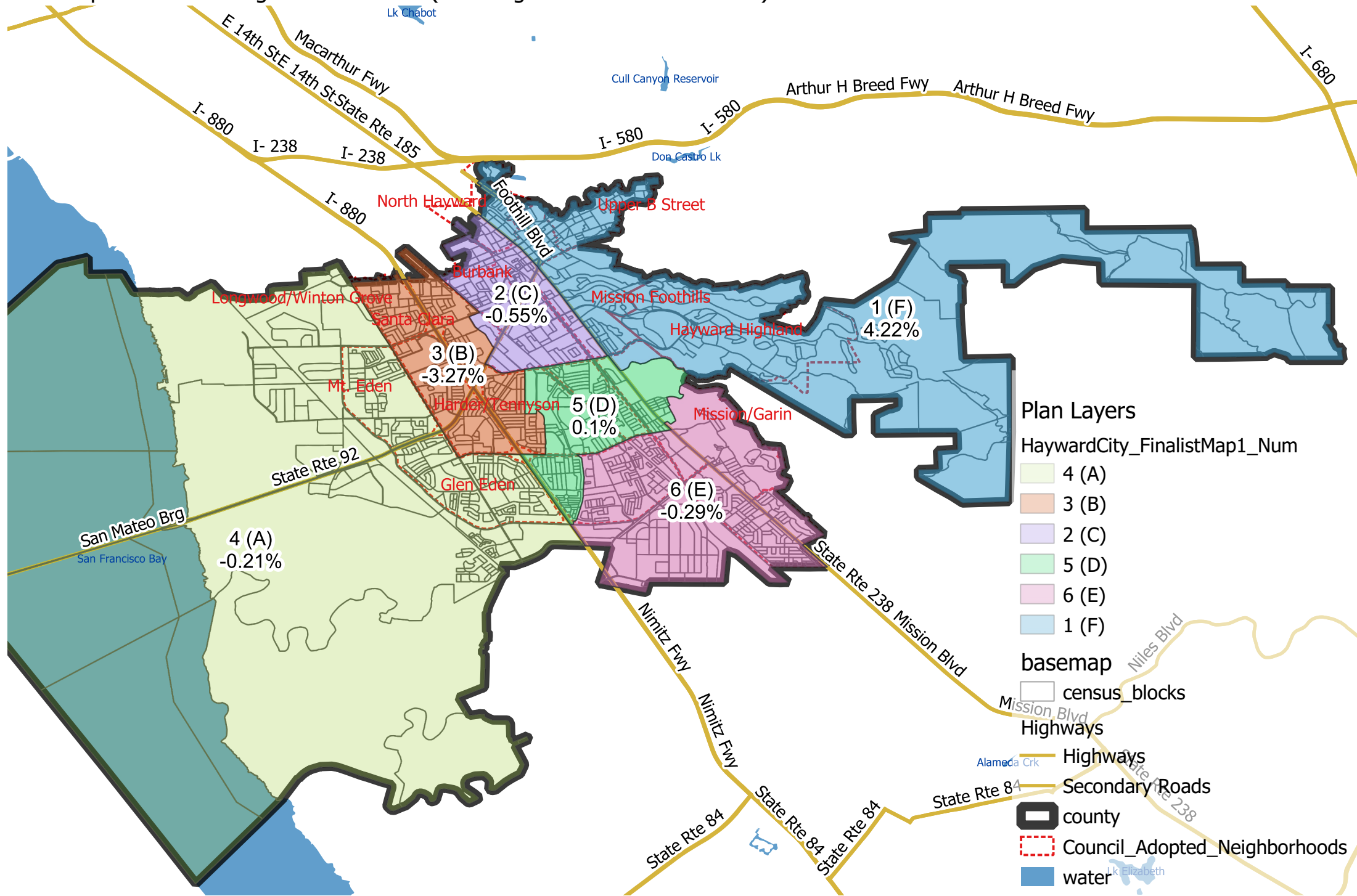
Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons needing accommodation should contact the City Clerk's Office 48 hours in advance of the meeting at (510) 583-4400, or by sending an email to cityclerk@hayward-ca.gov.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on the subject of this notice, the issues in the lawsuit may be limited to the issues which were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. By Resolution, the City Council has imposed the 90-day time deadline set forth in C.C.P. Section 1094.6 for filing of any lawsuit challenging final action on an item which is subject to C.C.P. Section 1094.5.

Dated: September 20, 2024
Miriam Lens, City Clerk
City of Hayward

DR 6853752; Sep. 20, 2024

Hayward City Council - Finalist Map 1 Modified with Proposed Numbering North to South (and Original Draft District Letter)



Plan Layers

HaywardCity_FinalistMap1_Num

- 4 (A)
- 3 (B)
- 2 (C)
- 5 (D)
- 6 (E)
- 1 (F)

basemap

- census_blocks
- Highways
- Highways
- Secondary Roads
- county
- Council_Adopted_Neighborhoods
- water