

DRAFT 11/3/2021 AMA

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND CHAPTER 1.04 (GENERAL PENALTY) BY ADDING SECTION 1.04.080 (ATTORNEYS' FEES AND COSTS FOR THE ABATEMENT OF PUBLIC NUISANCES) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO ATTORNEY'S FEES AND COSTS FOR ABATEMENT OF PUBLIC NUISANCES**

WHEREAS, the City of Sunnyvale desires to add a section to Chapter 1.04 of Title 1 of the Sunnyvale Municipal Code relating to attorneys' fees and costs for the abatement of public nuisances.

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

SECTION 1. Section 1.04.080 ADDED. Section 1.040.080 of Chapter 1.04 (General Penalty) of the Sunnyvale Municipal Code is hereby added to read as follows:

**1.04.080. Attorney's Fees and Costs for Abatement of Public Nuisances.**

The prevailing party in any civil action or proceeding to abate a public nuisance may recover its reasonable attorney's fees, provided that the city elected, at the initiation of such individual action or proceeding, to recover its own attorney's fees. In no action or proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding. A civil action or proceeding includes but is not limited to a civil action, inspection, abatement warrant proceeding, or appeal from an administrative proceeding. The city shall be deemed the prevailing party in the action or proceeding if a violation is shown to have existed at the time the action or proceeding is initiated by the city, even if the violation is abated prior to the conclusion of the proceeding or hearing. Any recovery of attorney's fees for abatement of a nuisance shall be in accordance with this section.

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:  
RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
Date of Attestation: \_\_\_\_\_

\_\_\_\_\_  
Mayor

(SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney