

## **Chapter 2.30. APPOINTMENT PROCESS TO FILL VACANCIES ON THE CITY COUNCIL**

### **2.30.010. Purpose and intent.**

The purpose of this chapter is to implement the requirement of city of Sunnyvale Charter Section ~~604606~~(e) by establishing a public process for appointment to fill vacancies on the city council when appointment is authorized by the City Charter. (Ord. 3144-19 § 1).

### **2.30.020. Applicability.**

This chapter applies to appointments permitted under Charter Section ~~604606~~ to fill vacancies on the city council when the city council has elected to fill such vacancy by appointment, and is intended to be consistent with Sunnyvale Charter Section ~~604606~~. To the extent there is any conflict between the Charter and this chapter, the terms of the Charter shall govern. (Ord. 3144-19 § 1).

### **2.30.030. Public process for city council appointments.**

The following process shall be used to fill a city council vacancy by appointment:

- (a) Application Period. At the meeting at which the city council determines to fill a vacancy by appointment, it shall establish application requirements and set an application period for receiving applications and interviewing candidates seeking appointment to the vacant seat.

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#### **Question 1: Require candidates to gather signatures from registered voters.**

##### **Option A: 20 signatures for Mayor or Councilmember positions**

Each candidate shall be proposed by not less than 20 nor more than 30 voters in the city in the case of candidates for mayor or in the respective council district in the case of candidates for councilmember.

##### **Option B: 20 signatures for Mayor and 10 signatures Councilmember positions**

Each candidate shall be proposed by not less than 20 nor more than 30 voters in the city in the case of candidates for mayor or not less than 10 nor more than 20 voters in the respective council district in the case of candidates for councilmember.

##### **Option C: Do not add signature gathering requirements**

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**Commented [DC1]:** 5. Options for signature gathering requirements for candidates.

(b) Public Notice of Application Period. The city clerk shall post the application period and application on the city's website and may also notify the public of the vacancy by other methods in accordance with then applicable practices commonly used by the city for providing broad public notice.

(c) Public Applications. The city clerk shall distribute the candidates' applications to the city council and shall make the statements available to the public.

(d) Public Interviews. The council shall hold an open and public meeting to interview all eligible candidates. The interview process shall be structured to allow the public to ask questions or provide comment before the interviews.

(e) Public Hearing on Interviews. The council shall hold a public hearing to receive public comment after the interviews and prior to making the appointment.

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**Question 2: Model voting after Board/Commission appointment process or Vice Mayor appointment process.**

**Option A: Similar to Board/Commission appointment process**

(f) Voting on Appointment. Following the public hearing, the council shall vote on the appointment as follows:

(1) ~~If there are fewer than five candidates, the mayor shall announce each candidate's name. Council will vote on each candidate, with councilmembers entitled to support more than one candidate. If no candidate receives four affirmative votes, council may continue with subsequent motions.~~ Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants may be voted on again. ~~Four or more councilmembers may vote to initiate the impasse-breaker process lead by the city attorney described in subsection (2).~~

**Commented [DC2]:** 1. Remove ranked choice voting provisions.

**Commented [DC3]:** 2. Language incorporating that Council will vote on each candidate and if no candidate receives four affirmative votes, Council may continue with subsequent motions.

**Commented [DC4]:** 3. Language incorporating that four or more Councilmembers may vote to initiate an impasse-breaker process lead by the City Attorney

**Option B: Similar to Vice Mayor appointment process**

(f) Voting on Appointment. Following the public hearing, the council shall vote on the appointment as follows:

(1) ~~The mayor shall ask the council for nominations from the list of candidates. If there are no nominations, the mayor may make a nomination. When it appears that no further nominations will be made, the mayor shall announce that the nominations are closed. Each councilmember is entitled to vote for only one candidate. If more than one candidate has been nominated, the mayor shall call for a vote of the first one nominated. If that candidate has received four or more votes, the mayor shall declare that candidate elected and the voting concluded. If not, the mayor shall call for a vote for the second candidate in the same manner. The candidate receiving four or more votes shall be declared appointed. If there are fewer than five candidates, the mayor shall announce each candidate's name. Council will vote on each candidate. If no candidate receives four affirmative votes, Council may continue with subsequent motions. Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants may be voted on again. Four or more councilmembers may vote to initiate the impasse-breaker process lead by the city attorney described in subsection (2).~~

**Commented [DC5]:** 1. Remove ranked choice voting provisions.

**Commented [DC6]:** 2. Language incorporating that Council will vote on each candidate and if no candidate receives four affirmative votes, Council may continue with subsequent motions.

**Commented [DC7]:** 3. Language incorporating that four or more Councilmembers may vote to initiate an impasse-breaker process lead by the City Attorney

**Commented [DC8]:** 4. At least three options of determining which candidates would be included in an impasse-breaker process.

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**Question 3: Impasse-breaker process options.**

**Option A: Similar to Board/Commission appointment process**

~~Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants will be voted on again. If a tie still remains, the mayor will ask the City Attorney to draw the name of the person to be appointed.~~

**Option B: Similar to Vice Mayor appointment process**

In the case of a tie, a vote shall be held among all Councilmembers and the mayor to break the tie. For example, in the case of three candidates, if candidate A gets three votes, candidate B gets two votes, and candidate C gets two votes, all Councilmembers and the mayor vote on Candidates B and C. If candidate C gets the most votes, the final vote will be held between Candidates A and C.

**Option C1: Equal weight drawing**

If four or more Council vote to initiate this impasse-breaker process, the mayor will ask the city attorney to draw the name of the person to be appointed. Candidates with the most affirmative votes and those with the second most affirmative votes will be included in the drawing. For example, in the case of eight candidates, if candidate A receives two votes, candidate B receives three votes, candidate C receives three votes and the remaining candidates receive zero votes, the draw will be between candidates A, B and C.

**Option C2: Proportional weight drawing**

If four or more Council vote to initiate this impasse-breaker process, the mayor will ask the city attorney to draw the name of the person to be appointed. Candidates with the most affirmative votes and those with the second most affirmative votes will be included in the drawing. For example, in the case of eight candidates, if candidate A receives two votes, candidate B receives three votes, candidate C receives three votes and the remaining candidates receive zero votes, the draw will be between candidates A, B and C, with candidate A receiving two entries in the drawing and candidates B and C each receiving three entries in the drawing.

~~(2) If there are five or more candidates, the mayor shall ask each councilmember to rank the candidates from first choice to last choice on a written ballot. The mayor may choose to recess the meeting while the city clerk counts the ballots. If one candidate receives four or more first choice votes, that candidate shall be declared to be appointed. If not, and one candidate has received the fewest first-choice votes, that candidate shall be eliminated, with his or her votes reassigned to the voters' second-choice candidates. If multiple candidates have tied for the fewest first-choice votes by receiving only one vote each, they shall be eliminated and their votes reassigned in the same manner. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, whichever one of them has received the fewest second-choice votes shall be eliminated and the votes reassigned. If multiple candidates have tied for the fewest first-choice votes by receiving two votes each, and have the same number of second-choice votes, the clerk shall call for a tiebreaker vote between those candidates, with the loser of the tiebreaker being eliminated and having his or her first-choice votes reassigned. The counting process shall continue until one candidate has at least four votes and is declared to be appointed. The city clerk shall announce the result of the voting.~~

(3) Any appointment requires at least four affirmative votes pursuant to Charter Section 604606(c). (Ord. 3144-19 § 1).

**Commented [DC9]:** 1. Remove ranked choice voting provisions.