

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO ADD CHAPTER 2.30 TO TITLE 2
(ADMINISTRATION AND PERSONNEL) OF THE
SUNNYVALE MUNICIPAL CODE RELATING TO THE
APPOINTMENT PROCESS FOR FILLING CITY COUNCIL
VACANCIES**

WHEREAS, on November 6, 2018, City of Sunnyvale voters approved an amendment to section 604 of the City of Sunnyvale Charter, which addresses vacancies in City Council seats; and

WHEREAS, amended Charter section 604 allows the City Council to fill certain vacancies by appointment until the next general election or special municipal election consolidated with a statewide election; and

WHEREAS, Charter section 604(e) provides that the City Council shall adopt an ordinance establishing a public process for appointment; and

WHEREAS, to implement Charter section 604(e), the City of Sunnyvale desires to add a new Chapter 2.30 to Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code relating to the process for appointing a City Council member when a vacancy occurs.

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

SECTION 1. CHAPTER 2.30 ADDED. Chapter 2.30 (Appointment Process to Fill Vacancies on the City Council) of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code is hereby added to read as follows:

Chapter 2.30

**APPOINTMENT PROCESS TO FILL VACANCIES
ON THE CITY COUNCIL**

- 2.30.010. Purpose and Intent.**
- 2.30.020. Applicability.**
- 2.30.030. Public Process for City Council Appointments.**

2.30.010. Purpose and Intent.

The purpose of this chapter is to implement the requirement of City of Sunnyvale Charter section 604(e) by establishing a public process for appointment to fill vacancies on the City Council when appointment is authorized by the City Charter.

2.30.020. Applicability.

This chapter applies to appointments permitted under Charter Section 604 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 604. To the extent there is any conflict between the Charter and this chapter, the terms of the Charter shall govern.

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.

(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.

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

(1) If there are less than five candidates, the Mayor shall announce each candidate's name. Council will vote on each candidate. Should a tie between the candidates receiving the most affirmative votes occur, the affected applicants may be voted on again.

(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 elected. 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 elected. The City Clerk shall announce the result of the voting.

(3) Any appointment requires at least four affirmative votes pursuant to Charter section 604(c).

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