

Redistricting Ordinance Establishing Public Process- Redline for 3/16/21 City Council -Meeting

Chapter 2.31 Redistricting

2.31.010. Purpose and intent.

The purposes and intent of this chapter are to:

- (a) Implement the requirement of Sunnyvale Charter Section 609(b) by establishing a public process for redistricting;
- (b) Establish a redistricting process that is open and transparent and allows public participation in drawing of district boundaries;
- (c) Ensure that city council district boundaries are drawn according to the redistricting criteria set forth in applicable State and Federal laws; and
- (d) Facilitate a redistricting process that is conducted with integrity, fairness, and without personal or political considerations.

2.31.020 Duties and Authority of Redistricting Commission and City Council.

(a) Hybrid Redistricting Commission Established. A redistricting commission of seven members and three to six alternates is hereby established. The duties of the redistricting commission shall be to meet, hold public meetings and hearings as required by law, and to recommend to the city council maps of six districts by which councilmembers will be elected, as further described in this Chapter.

(b) City Council Approval of Redistricting Schedule, Outreach Plan, Budget. Within a reasonable period before the city receives the final Federal Decennial Census information, city staff shall prepare and submit to the city council for approval a community outreach plan and meeting schedule for the redistricting process. The plan and schedule will take into account all relevant state law related to redistricting. The city council shall appropriate adequate funds for the work of the redistricting commission, including funds necessary for community outreach, costs for city staff time associated with supporting the work of the redistricting commission, and hiring a demographer and any other necessary consultants or outside counsel.

(c) City Council District Map Adoption Process. The redistricting commission shall recommend, and the city council shall adopt, new districts in the following manner:

(1) The redistricting ~~c~~G Commission shall hold public hearings as required by law. The redistricting commission shall select three to five proposed district maps to recommend to the city council (the "proposed district maps"). The redistricting commission shall also indicate the proposed district map that it prefers the city council adopt (the "preferred map"). Selection of the proposed district maps and the redistricting commission's preferred map shall require the affirmative vote of four commissioners and shall occur consistent with the outreach plan and schedule. All other redistricting commission actions require only a majority vote of those present, provided that a ~~quorum is~~ majority of the members of the commission are present.

(2) Prior to the redistricting commission's ~~meeting to select recommendation of~~ proposed district maps and ~~selection of~~ the preferred map, the redistricting commission and the city council shall hold a joint meeting to review map submissions and draft maps, and provide the city council the opportunity to comment on possible maps.

(3) ~~At least~~Not earlier than seven days after the redistricting commission's proposed district maps have been made available to the public, the city council shall hold at least one public meeting to receive input on the redistricting commission's proposed district maps. After the public hearing, the city council ~~shall take one of the following actions:~~

~~(i) may a~~Approve and adopt one of the proposed district maps. The city council may not make any changes to a proposed district map unless adjustments are required to comply with state law, the United States Constitution or the federal Voting Rights Act, commencing at 52 U.S.C. Section 10101. If the city council approves a proposed district map, it shall become the final district map and shall be implemented.

~~(4) (ii) If the city council fails to adopt one of the proposed district maps as provided in section 2.31.020(c)(3), it may take one or more of the following actions:~~

~~Disapprove a proposed district map(s) by a supermajority vote. If the city council disapproves the redistricting commission's proposed district map(s), it shall explain the reasons for disapproval. It may also select one or more proposed district maps that that it deems closest to meeting the city council's objectives and r~~

~~(i)~~ Return one or more proposed district maps ~~that map or maps~~ to the redistricting commission with comments. The redistricting commission shall then consider the city council's comments ~~and reasons for disapproval~~ and may ~~consider approve~~ changes to the city council's returned district map(s) or reaffirm their approval of the returned map(s) ~~without change. The redistricting commission shall also select a new preferred map or reaffirm its prior decision on the preferred map.~~ After such consideration, the redistricting commission shall resubmit to the city council the original the City Council's returned maps ~~maps returned by the council, any revised maps developed by the redistricting commission in response to the city council's comments, and which may but are not required to include changes, and its final recommended preferred district map, which may be any map selected by the redistricting commission, to the city council and~~ the city council shall hold another public hearing not earlier than seven days after the proposed district maps have been made available to the public to select one of the redistricting commission's recommended original proposed district maps, or one of the proposed district maps resubmitted by the commission.

~~(ii)~~ Disapprove a proposed district map(s) with an affirmative vote of at least five council members. A map that is disapproved pursuant to this subsection shall not be reconsidered by the redistricting commission or the city council.

(54) Inaction by Redistricting Commission and/or City Council in Selecting Maps. Time is of the essence in completing the redistricting process. Notwithstanding any other provisions of this chapter, the following rules shall apply:

(i) If the redistricting commission fails to select proposed district maps and a preferred district map by the date set forth in the outreach plan and schedule approved by the city council, the latest maps considered by the redistricting commission shall be forwarded to the city council. The city council will review those maps, may make changes to any of those maps, and shall make a final decision on a district map.

(ii) If the city council fails to ~~either~~ adopt one of the redistricting commission's proposed district maps and returns maps to the redistricting commission for reconsideration as provided in section 2.31.020(4)(i), and the ~~or reject and return a map to the~~ redistricting commission does not complete the process to reconsider and resubmit maps to the city council by the date set forth in the outreach plan and schedule approved by the city council, the city council shall reconsider and choose from the proposed district maps originally submitted to the city council.

~~-(iii) within 60 days of the date of the city council's first meeting on the redistricting commission's proposed district maps or If the City Council fails to select a district map by the deadline set by election authorities for submitting district maps, ~~whichever occurs sooner,~~ the most recently approved version of the~~ redistricting commission's ~~recommended preferred~~ district map shall be deemed adopted and shall go into effect immediately.

(65) The redistricting map approved and adopted pursuant to this section shall be subject to referendum as provided in Article XIV of the City Charter.

#### 2.31.030 Eligibility and appointment of Redistricting Commissioners.

(a) Composition of Redistricting Commission. The redistricting commission shall consist of seven commissioners and three to six alternates. The city council will use its best efforts to make appointments that achieve the goal of having at least one and not more than two members per district on the redistricting commission, based on residency at the time of application, and at least one but not more than two alternates per district. However, this is these numbers are not required if a majority of councilmembers agree to a different composition that achieves the other standards described in this section.

(b) Role of Alternates. Alternates are subject to the same terms of office, qualifications, restrictions, and standards of conduct as other commissioners under this Section. Alternates and may fully participate in redistricting commission deliberations but may not vote and may not be counted towards the establishment of a quorum except as follows: ~~Alternates are subject to the same terms of office, qualifications, restrictions, and standards of conduct as other commissioners under this Section.~~

(1) Commissioner Absence. If a regular commission member is absent from a meeting of the redistricting commission, an alternate shall fulfill all responsibilities of that commissioner, including voting. Alternates shall be selected to fill the role of an absent commissioner based on the following criteria: (1) If an alternate is present who resides in the same district as the absent commissioner, that alternate shall fill the role of the absent commissioner. However, if more than one alternate resides in the same district, the Mayor shall designate a primary alternate for that district before the first redistricting commission meeting. (2) If there is not an alternate present who resides in the same district as the absent commissioner, the alternate to fill the role of an absent commissioner will be selected based on a ranked list of alternates established by the mayor before the first redistricting commission meeting

(2) Commissioner Vacancy. If one of the seven commissioners becomes unable to serve for any reason, the Mayor will appoint one of the alternates to fill the vacancy, considering ~~first~~ the goal of achieving representation of at least one and not more than two members per district, ~~and second the numerical order in which the city council appointed the alternates. Alternates are subject to the same terms of office, qualifications, restrictions, and standards of conduct as other commissioners under this Section.~~

(c) Appointment of Redistricting Commissioners. Redistricting commission members and alternates shall be selected and appointed by the city council as provided in this section.

(1) Open Application Process. Commissioners shall be selected through an open application process that aligns with the city council ~~p~~Policy for selecting members of other boards and commissions, except as provided in this section, except that the city council may choose a different voting process to achieve the goals described in subsection 2.31.030(a). Commissioners and alternates shall be appointed by the city council at a public hearing from the pool of qualified applicants.

(2) Desirable Qualifications of Applicants. The city council should select applicants that are best qualified to carry out the redistricting commission's duties and that, as a group, reasonably reflect the diversity of the City, provided that no quotas, formulas, or ratios may be applied for this purpose. In evaluating applications, the city council shall consider each applicant's:

- i. interest in and ability to carry out the responsibilities of the redistricting commission;
- ii. demonstrated ability to serve with impartiality in a nonpartisan role;
- iii. relevant analytical skills;
- iv. familiarity with the City's neighborhoods and communities;
- v. appreciation for the diverse demographics of the City, including but not limited to geography, race and ethnicity, gender, age, and economic class;
- vi. demonstrated ability to work cooperatively with other commissioners; and

vii. relevant civic and/or volunteer activities.

viii. ability to devote time required of a commissioner under the approved redistricting schedule and out-reach plan.

(3) Required Qualifications of Applicants. To be eligible for appointment to the redistricting commission, a person must, at the time of their appointment, be a resident of the city; have resided in the city for at least one year; and be eligible to vote in the will be at least eighteen years of age by the date of the city council elections for which the redistricting will be effective.

(4) Ineligibility to Serve on Redistricting Commission. A person is not eligible for appointment if:

i. ~~The person or any family member of the person has been elected or appointed to, or been a candidate for, an elective office of the local jurisdiction in the eight years preceding the person's application;~~

ii. The person or his or her spouse has ~~done any of the following~~ in the eight years preceding the person's application:

~~(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.~~

~~(B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.~~

~~(C) Served as a staff member or a consultant to, or who has contracted with, a currently serving elected officer of the local jurisdiction.~~

~~(D) Been registered to lobby the local jurisdiction.~~

~~(E)~~ ii. The person or his or her spouse has, in the four years preceding the person's application, contributed one thousand five hundred dollars (\$1,500) or more in a year to any single candidate other than the candidate him/her self, for an elective office of the local jurisdiction, which the city will adjust by the cumulative change in the California Consumer Price Index, or its successor, in every year ending in zero.

iii. ~~A family member of the person, other than his or her spouse, has done any of the following in the four years preceding the person's application:~~

~~(A) Served as an officer of, employee of, or paid consultant to, a campaign committee or a candidate for elective office of the local jurisdiction.~~

~~(B) Served as an officer of, employee of, or paid consultant to, a political party or as an elected or appointed member of a political party central committee.~~

(5) Redistricting Commissioner Restrictions During and After Service. To promote public confidence in the redistricting process, redistricting commissioners and alternates shall be a designated employees for

purposes of the conflict of interest code adopted by the city council and shall ~~strive to~~ perform their service on the redistricting commission with impartiality and integrity. In addition, redistricting commissioners and alternates shall not:

i. While serving on the redistricting commission, endorse, work for, volunteer for, or make a campaign contribution to, a candidate for an elective office of the city.

ii. Be a candidate for an elective office of the city if ~~any of the following is true:~~

~~(A) Less than five years has elapsed since the date of the commissioner's appointment to the redistricting commission.~~

~~(B) The election for that office will be conducted using district boundaries that were adopted by the redistricting commission on which the member served, and those district boundaries have not been subsequently readopted by a redistricting commission after the end of the commission's term on the commission.~~

~~(C) The election for that office will be conducted using district boundaries that were adopted by the city council pursuant to a recommendation by the redistricting commission on which the commissioner served, and those district boundaries have not been subsequently readopted by the city council pursuant to a recommendation by the redistricting commission after the end of the commissioner's term on the redistricting commission.~~

iii. For four years commencing with the date of his or her appointment to the redistricting commission;

~~(A) Accept employment as a staff member of, or consultant to, an elected official or candidate for elective office of the city.~~

~~(B) Receive a noncompetitively bid contract with the city.~~

iv. For two years commencing with the date of his or her appointment to the redistricting commission, accept an appointment to ~~an~~ the office ~~of the city~~ of City Manager, City Attorney, or department head.

(6) Redistricting Commissioner Terms. The term of office of each redistricting commissioner and alternate begins with their appointment to the redistricting commission and ends when a new final district map is adopted. Commissioners and alternates may be removed in accordance with the city council policy for boards and commissions.

#### 2.31.040 Redistricting Criteria.

After ensuring that proposed districts comply with the United States Constitution, California Constitution, and applicable federal and state laws, including the federal Voting Rights Act, commencing at 52 U.S.C. Section 10101, the redistricting commission may consider the following criteria in

determining the boundaries of each city council district in its final ~~recommended city council~~ proposed district maps and preferred alternative:

(1) Districts are composed of whole census units as developed by the United States Bureau of the Census; and

(2) Ensure to the extent practicable that voters who did not vote for a city council candidate in 2020 are able to vote in a district that will be on the ballot in 2022.

#### 2.31.040 Severability.

If any portion of this chapter is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this chapter. The city council declares that this chapter and each portion would have been adopted without regard to whether any portion of this chapter would be later declared invalid, unconstitutional, or unenforceable.