

**ORDINANCE NO. 3180-21**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND SECTION 2.28.030 OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO IN LIEU PETITIONS FOR COST OF CITY COUNCIL CANDIDATE STATEMENTS**

WHEREAS, on March 3, 2020, Sunnyvale voters approved Measure B, changing the Sunnyvale electoral system from seven at-large Councilmembers to a system with six district-based Councilmembers selected by voters residing within each Council district and a Mayor elected by all Sunnyvale voters vote for the Mayor; and

WHEREAS, for many years, Sunnyvale Municipal Code (SMC) section 2.28.030 has allowed City Council candidates to obtain a full subsidy for the cost of publishing a candidate statement by submitting 250 or more signatures, verified by the registrar of voters, or a partial subsidy that is pro-rated based on the number of verified signatures under 250; and

WHEREAS, because the change to district elections means that only voters residing in each council district will be eligible to vote for candidates in their district, the City Council has determined that it is appropriate to reduce the number of signatures required for candidates for any City Council district to obtain a full or partial subsidy of the cost of publishing a candidate statement; and

WHEREAS, the City of Sunnyvale therefore desires to amend section 2.28.030 of the Sunnyvale Municipal Code Chapter relating to in lieu petitions for cost of candidate's statements.

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

SECTION 1. Section 2.38.030 AMENDED. Section 2.28.030 of Chapter 2.28 (Elections) of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**2.28.030. In lieu petitions for cost of candidate's statement.**

Each candidate filing a statement must pay in advance his or her estimated pro rata share of the total cost of printing, handling, translating, and mailing the candidate's statement as a condition of having his or her statement included in the voter's pamphlet. This estimated pro rata cost is determined by the Santa Clara County Registrar of Voters prior to each election. A candidate for any office of the city council may submit a petition containing signatures of registered voters in lieu of paying all or a portion of the costs of the candidate's statement assessed

pursuant to Section 13307 of the Elections Code of the state of California as follows:

(a) If a candidate for mayor submits a petition containing not less than two hundred fifty valid signatures, or a candidate for any city council district submits a petition containing not less than one hundred valid signatures, then the city shall assume the entire cost of that candidate's statement and the candidate shall not be liable for payment of any of the costs thereof assessed pursuant to Section 13307 of the Elections Code.

(b) A candidate who submits a petition containing less than the number of valid signatures set forth in subsection (a) shall be given a credit toward the cost of the candidate's statement assessed pursuant to Section 13307 of the Elections Code of a pro rata amount for each valid signature contained in the petition. The pro rata amount shall be approximately 1/250th of the cost of the mayor's candidate statement and 1/100th of the cost of a district candidate's statement, rounded to the nearest whole dollar amount. In the event the total credit allowed to a candidate is less than the cost of the candidate's statement assessed pursuant to Section 13307 of the Elections Code, then the candidate shall be responsible for the remainder of the cost. In the event the total credit allowed equals or exceeds the actual cost of the statement, whether or not the number of valid signatures required by subsection (a) have been obtained, the candidate shall be relieved of any obligation for the cost of the statement. In no event shall the city make any payment to a candidate or in any way become obligated to a candidate by reason of the fact that the credit calculated may exceed the actual cost of the statement.

(c) Except as otherwise provided in this section, any registered voter may sign an in lieu petition for any candidate for whom he or she is eligible to vote.

(d) A registered voter may only sign an in lieu petition for one candidate for any city council district and one candidate for mayor. If a registered voter signs in lieu petitions for more than one candidate for any city council district or more than one candidate for mayor, the voter's signature shall be valid only on the petition which is filed first in time with the city clerk.

(e) A registered voter may, but is not obligated, to sign both a candidate's nomination papers and an in lieu petition for that candidate. Any voter desiring to sign both a candidate's nomination papers and in lieu petition shall be obligated to sign each separately. The signing of one by a voter shall not be deemed automatically to constitute the signing of the other.

(f) A candidate may only obtain nomination papers for one council office at a time. If papers are obtained for one council office and the candidate decides to run for a different council office, the papers obtained for the initial office must be returned before the other papers are obtained. The city clerk shall furnish to each candidate, upon request, and without charge therefor, forms for securing

signatures. The city clerk shall fill in the name of the candidate, the election date, and the office being filed for on all pertinent election forms. The forms may be issued at the time a candidate is issued nomination papers for the office of city council, or at any time after such issuance and before such nomination papers are filed with the city clerk. The in lieu petition shall be filed by the candidate with the city clerk at the time the nomination papers for that candidate are filed. The entire in lieu petition, and all pages thereof, shall be filed at one time with the nomination papers. A candidate shall not be entitled to file additional signatures either prior to or subsequent to the time of filing of the nomination papers.

(g) The petition shall be in such form as may be prescribed by the city clerk. Candidates shall utilize the forms provided by the city clerk. No forms prepared by the city clerk shall be altered. If a form is altered, it shall not be accepted for filing. Collection of signatures is not considered to be an alteration of a form.

(h) As soon as is practicable following filing of in lieu petitions, the city clerk shall examine such petitions, or cause such petitions to be examined, for the purpose of determining the number of valid signatures thereon. Upon completing examination of all petitions for the various candidates, the city clerk shall give written notice to each candidate of the number of valid signatures contained in the petition submitted by that candidate and the total credit which the candidate will be allowed toward the cost of the statement. Each candidate may submit more than the minimum number of signatures required to obtain a statement cost fully paid by the city to allow for subsequent losses due to invalidity of some signatures. The clerk shall not be required to determine the validity of more than two hundred fifty signatures for candidates for mayor or one hundred signatures for candidates for any city council district. Candidates shall not be allowed additional time in which to collect supplemental signatures in the event the number of valid signatures is less than the number required in subsection (a) to obtain a statement cost fully paid by the city.

(i) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 2187 of the Elections Code prior to the first day on which petitions are available.

(j) If the number of signatures affixed to an in lieu petition filed pursuant to this section is one hundred or more, the city clerk may use a random sampling technique for the verification of signatures as set out in Section 8084 of the Elections Code.

**SECTION 2. CEQA - EXEMPTION.** The City Council finds, pursuant to Title 14 of the California Code of Regulations, sections 15378(b)(4) and 15378(b)(5), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a fiscal and governmental organizational or administrative activity that will not result in direct or indirect changes in the environment and does not involve any commitment to any

specific project which may result in a potential significant impact 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