

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
UNION CITY AMENDING CHAPTER 2.04 OF THE MUNICIPAL CODE, “CITY
COUNCIL”, TO ESTABLISH A DISTRICT-BASED ELECTION SYSTEM**

WHEREAS, members of the City Council of the City of Union City (“City”) are currently elected in “at-large” elections, in which each of the four City councilmembers, as well as mayor, is elected by the registered voters of the entire City; and

WHEREAS, the City received a certified letter on March 15, 2019 from the Mexican American Legal Defense and Education Fund (“MALDEF”) alleging that the City's at-large councilmember electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declines to voluntarily change to a district-based election system for electing councilmembers; and

WHEREAS, the City Council for the City of Union City reflects the broad diversity of Union City’s residents; and

WHEREAS, the City is committed to diversity and inclusion and denies its election system violates the CVRA or any other provision of law and asserts the City’s election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its elections; and

WHEREAS, furthermore the letter from MALDEF was not accompanied by any evidence to support the claim of a CVRA violation; and

WHEREAS, to avoid the extremely high costs associated with defending a lawsuit based on the CVRA, on April 11, 2018, the City Council adopted a resolution declaring the City’s intent to transition from at-large elections to district-based councilmember elections pursuant to Elections Code section 10010; and

WHEREAS, pursuant to Government Code sections 34886 and 34871, the City has the authority to adopt an ordinance requiring members of the City Council to be elected by district with an elective mayor system; and

WHEREAS, Government Code section 34886 requires any such ordinance to include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001; and

WHEREAS, pursuant to Elections Code section 10010, before any maps of the proposed boundaries of the districts were drawn, the City Council held public hearings on June 25, 2019, and July 13, 2019, to receive public input regarding the composition of district maps; and

WHEREAS, on August 6, 2019, consistent with the provisions of Elections Code section 10010, the City published and made available for release, a potential sequence of elections and seven draft maps for consideration by the City Council; and

WHEREAS, the City Council held a public hearing on August 13, 2019, to receive public input regarding the proposed district maps and sequence of elections and selected two maps for further consideration, and directed that additional maps be prepared that slightly modified one of the selected maps; and

WHEREAS, on August 30, 2019, consistent with the provisions of Elections Code section 10010, the City published and made available for release, a potential sequence of elections and nine draft maps, including the seven previously published draft maps, for consideration by the City Council; and

WHEREAS, the City Council held a public hearing on September 9, 2019, to receive public input and selected a preferred district map and sequence of elections; and

WHEREAS, also pursuant to Elections Code section 10010, the City Council held a public hearing on September 24, 2018, prior to adoption of this Ordinance; and

WHEREAS, throughout the foregoing process, the City engaged in a public outreach and engagement above and beyond the public hearings and other procedures required by California Elections Code Section 10010; and

WHEREAS, in order to further the purposes of the California Voting Rights Act of 2001 , the City Council now wishes to adopt an ordinance providing that the members of the City Council shall be elected by-district in four districts with an elective mayor system beginning at the November 2020 general election; and

WHEREAS, the four City Council electoral districts to be established are described further in this Ordinance and shown on the district map, attached hereto as Exhibit “A” to this Ordinance.

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. Amendments

Chapter 2.06 of the Union City Municipal Code, “City Council”, is hereby amended to add Article XII, “District-Based Elections”, to read as follows:

“Article XII. District Based Elections

Section 2.06.500 District-Based Electoral System

Members of the city council, except for the mayor, shall be elected on a district-based electoral system from four (4) single-member city council districts pursuant to Government Code Sections 34886 and 34871. For purposes of this section, the term “district-based electoral system” shall mean the election of city councilmembers by the voters of the district alone. The mayor shall be elected by the voters of the entire city.

Section 2.06.510 District-Based Electoral System

(a) Members of the city council, except for the mayor, shall be elected on a district-based electoral system, from the four city council districts reflected in Exhibit A. The mayor shall be elected by voters of the entire city.

(b) Except as provided in subsection (c), each member of the city council elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for city council must live in, and be a registered voter in, the city council district in which that candidate is seeking election at the time nomination papers are issued to that candidate pursuant to Government Code Section 34882 and Elections Code Section 10227. Termination of residency in a district by a member of the city council shall create an immediate vacancy for that city council district unless a substitute residence within the district is established within thirty (30) days after that termination of residency.

(c) Notwithstanding any other provision of this section, the members of city council in office at the time this ordinance takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified.

(d) The city council districts described in this section shall be adjusted following each decennial federal census, as required by California Elections Code section 21600, *et seq.*, or by other law.

Section 2.06.520 Election Schedule

Members of the City Council shall be elected from City Council District _____ at the November 2020 general municipal election, and every four years thereafter. Members of the City Council shall be elected from City Council Districts _____ at the November 2022 general municipal election, and every four years thereafter.”

SECTION 3. Map

A map showing the districts described in this Ordinance and codified in Chapter 2.06 of the Union City Municipal Code is attached hereto as Exhibit A and incorporated herein by reference.

SECTION 4. Technical Adjustments

If necessary to facilitate the implementation of this Ordinance, the City Manager is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Manager shall consult with the City Attorney concerning any

technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 5. CEQA. Approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 7. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Union City at a regular meeting held on _____, 2019, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS

APPROVED:

Carol Dutra-Vernaci, Mayor

ATTEST:

Anna Brown, City Clerk

APPROVED AS TO FORM:

Kristopher J. Kokotaylo, City Attorney