

ORDINANCE NO. \_\_\_\_\_

**“AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA AMENDING SECTION 2.04.050 OF CHAPTER 2.04 OF THE RIALTO MUNICIPAL CODE TO REPEAL PARAPGRAH “C” THAT PROVIDED A 120 DAY COOLING-OFF PERIOD REGARDING THE TERMINATION OF A CITY MANAGER.”**

**WHEREAS**, Section 2.04.050.C of the Rialto Municipal Code mandates that the City Council provide City Managers with a cooling-off period of 120 days before any election at which a new councilmember may be elected and a further 120 days after any election at which a new councilmember is elected; and

**WHEREAS**, Section 2.04.050.C of the Rialto Municipal Code prevents the City Council from terminating a City Manager with or without cause during the cooling-off period for a period of eight months, thereby unduly restraining the proper authority of the City Council; and

**WHEREAS**, the City Council determines that the granting of any cooling-off period should be at the discretion of the City Council to consider during the negotiation of the terms of any new or amended employment contract with a city manager; and

**WHEREAS**, the City Council desires to repeal Paragraph C of Section 2.04.050 of the Rialto Municipal Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. INCORPORATION BY REFERENCE**

The above recitals are true and correct and material to this ordinance. In making its findings, the City Council relied upon and hereby incorporates by reference all staff reports, presentations, and other documentation presented to the Council in the meeting.

**SECTION 2. AMENDMENT OF SECTION 2.04.050 OF CHAPTER 2.04 OF THE CITY OF RIALTO MUNICIPAL CODE.**

Section 2.04.050 of Chapter 2.04 of the Rialto Municipal Code shall be amended to repeal and delete Paragraph “C” in its entirety in the manner shown, with representing deleted language.

1 All unmarked text shall remain unmodified and in full force and effect:

2 2.04.050 - Term of office—Removal.

3 A. When the city council appoints the city manager for an indefinite term, it may remove  
4 him/her by a majority vote of the council. The city council, in removing the city manager, shall use  
5 its discretion and its action is final. The city council may suspend the city manager from duty, but  
6 shall, in any case, cause to be paid to him/her forthwith any unpaid balance of his/her salary for  
7 services rendered until termination and any other financial obligation arising out of any  
8 employment contract, unless relieved by any valid legal defenses.

9 B. When the city council contracts with the city manager for a term certain, it may remove  
10 him/her by a majority vote of the council, but any financial obligations arising out of said contract  
11 must be met unless relieved by any valid legal defenses.

12 ~~C. The city manager shall not be removed from office during or within a period of one~~  
13 ~~hundred twenty days prior to or one hundred twenty days next succeeding any general municipal~~  
14 ~~election held in the city, at which election a member of the city council is elected or following~~  
15 ~~appointment of a new councilperson. Prior to the one hundred twenty day period and after the~~  
16 ~~expiration of the one hundred twenty day periods mentioned herein, the provisions of subsections~~  
17 ~~A and B of this section as to the removal of the city manager apply and are effective.~~

18 **SECTION 6. SEVERABILITY.**

19 If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason  
20 held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such  
21 decision will not affect the validity of the remaining portions of this ordinance. The City Council  
22 hereby declares that it would have passed this ordinance and each and every section, subsection,  
23 sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any  
24 portion of the ordinance would be subsequently declared invalid or unconstitutional.

25 **SECTION 5. EFFECTIVE DATE**

26 This ordinance shall be in full force and effect thirty (30) days following its approval and  
27 second reading, and shall be published and posted as required by law.

28 **SECTION 6. CERTIFICATION**

The City Clerk shall certify to the adoption of this ordinance and cause the same to be published in the local newspaper.

**PASSED, APPROVED AND ADOPTED** this \_\_ day of September 2023.

DEBORAH ROBERTSON, Mayor

**ATTEST:**

BARBARA MCGEE, City Clerk

**APPROVED AS TO FORM:**

ERIC VAIL, City Attorney  
Burke, Williams & Sorensen, LLP