

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO,
CALIFORNIA, ADDING SECTION 18.64.090, "MINOR VARIANCE" TO
CHAPTER 18.64 OF TITLE 18 IN THE RIALTO MUNICIPAL CODE
ESTABLISHING A MINOR VARIANCE ADMINISTRATIVE APPROVAL
PROCEDURE**

WHEREAS, the City of Rialto ("City") is authorized by California Government Code section 65906 to grant variances from the terms of the zoning ordinances when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and

WHEREAS, the City has adopted a variance procedure in Chapter 18.64 of the Rialto Municipal Code ("Municipal Code") to grant variances that are in harmony with the general purpose and intent of Title 18 [Zoning] of the Municipal Code, so that the spirit of Title 18 is observed, public safety and welfare are secured, and substantial justice done; and

WHEREAS, Section 18.64.080 of the Rialto Municipal Code establishes a procedure to grant variances without a public hearing in certain circumstances, pursuant to California Government Code section 65901, but the Municipal Code does not contain a procedure or method to grant minor variances, deviations, or departures from the strict application of Title 18; and

WHEREAS, the City Council of the City revisits the Municipal Code from time to time and amends the regulations for the benefit of the City's citizens; and

WHEREAS, the City Council desires to improve the efficiency of the approval process of minor deviations, departures, or changes by having the director of development services instead of the planning commission review the minor variance process.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO FINDS AND
ORDAINS AS FOLLOWS:**

Section 1. The above recitals are true and correct and hereby adopted as findings.

1 **Section 2.** Section 18.64.090, “Minor Variance,” of the Rialto Municipal Code hereby is
2 added to read as set forth below:

3 “18.64.090 – Minor Variance.

4 A. The purpose of the minor variance procedure is to provide a method whereby minor
5 deviations from the strict application of the variance standards contained in this Title is
6 permitted, when the strict application of such would deprive such property of privileges
7 possessed by other property in the same zone and vicinity.

8 B. Any person, firm, corporation or other entity may apply in writing to the director of
9 development services for a minor variance. The director of development services shall
10 review and make a determination concerning all applications for minor variances.
11 Applications for minor variances shall be limited to an application for the following:

12 1. When the strict and literal interpretation, and enforcement of this Title would result in
13 practical difficulties, unnecessary hardships, or results inconsistent with the general
14 purpose of this Title, the director of development services shall have the authority to
15 grant a minor variance from the provisions of this Title, provided that the addition will
16 not result in a deviation of more than ten percent (10%) from a measurable standard.

17 2. Minor modifications to the requirements of signs and advertising structures under
18 section 18.102.060 of the code:

19 a. Sign height, provided that the sign may not be raised more than twenty-five
20 percent above that which would otherwise be permitted.

21 b. Sign area, provided that the sign may not be increased in area more than twenty-
22 five percent above that which would otherwise be permitted.

23 c. Sign location.

24 C. An application for a minor variance may be initiated by the City or by an interested party
25 in accordance with the provision of Section 18.64.030, Application – Fee. No later than
26 thirty days after receiving an application for a minor variance, the director of development
27 services shall determine, in writing, whether the application is complete and shall
28 immediately transmit the determination to the project applicant. If written determination is

1 not made within the specified thirty (30) day time period, the application shall be deemed
2 complete for processing. Upon receipt of any resubmittal or revision to an accepted
3 application, a new thirty (30) day period shall begin.

4 D. Upon receipt of a complete application for a minor variance, the director of development
5 services shall notify the owners of all parcels located adjacent to the property by letter,
6 using the last known county assessor tax roll. Notification shall also include all parcels
7 which are located directly across any public or private right-of-way from the property.

8 E. An application for a minor variance shall be reviewed by the director of development
9 services, whom shall then approve, conditionally approve or deny such permit. The
10 decision of the director of development services shall be final and conclusive in the
11 absence of a timely filed appeal to the planning commission. In granting an application for
12 a minor variance, the director of development services may attach reasonable requirements
13 to ensure that the minor variance:

- 14 1. Will not endanger the public health, safety or general welfare;
- 15 2. Will not injure the value of adjoining or abutting property;
- 16 3. Will not result in any significant environmental impacts;
- 17 4. Will be in harmony with the area in which it is located; and
- 18 5. Will be in conformity with the general plan and/or applicable specific plan(s).

19 F. In reviewing a minor variance application, the director of development services shall
20 consider and clearly establish the necessary conditions under section 18.64.020 of this
21 code.

22 G. Any interested person may appeal a decision of the director of development services
23 pursuant to the Chapter 16.68, Appeals, of this Title. No minor variances shall be effective
24 until the appeal period has been exhausted.”

25 **Section 3.** This ordinance is not a project within the meaning of Section 15378 of the State
26 CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in
27 physical change in the environment, directly or indirectly. In the event that this Ordinance is found to
28 be project under CEQA, it is subject to the CEQA exemption contained in CEQA Guideline section

1 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the
2 environment.

3 **Section 4.** If any provision of this Ordinance is held invalid, such invalidity shall not affect
4 the remaining provisions of this Ordinance, which shall remain in effect absent the provision held to
5 be invalid, and to this end, the provisions of this Ordinance are declared to be severable.

6 **Section 5.** The City Clerk shall certify to the adoption of this Ordinance, and cause the
7 same to be published in the local newspaper, and the same shall take effect thirty (30) days after its
8 date of adoption.

9
10 **PASSED, APPROVED AND ADOPTED** this ____ day of _____, 2017.

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12 _____
13 DEBORAH ROBERTSON, Mayor

14 **ATTEST:**

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16 _____
17 BARBARA A. McGEE, City Clerk

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19 **APPROVED AS TO FORM**

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21 _____
22 FRED GALANTE, City Attorney

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