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ORDINANCE NO. 0-09-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA, ADDING SECTION 2.04.040 TO THE COLTON MUNICIPAL CODE RELATING TO THE SUPERVISION OF THE EXECUTIVE ASSISTANT TO THE COUNCIL/OFFICE MANAGER AND MAKING OTHER CLARIFYING CHANGES TO SECTION 2.16.070(B) OF THE COLTON MUNICIPAL CODE

WHEREAS, the City Council would like to switch the appointment and supervision authority for the Executive Assistant to the Council/Office Manager from the City Manager to the City Council; and

WHEREAS, the City Council would also like to make some related clarifying changes to Chapter 2.16 of the Colton Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 2.04.040 (Executive Assistant to the Council/Office Manager).

Section 2.04.040 (Executive Assistant to the Council/Office Manager) is hereby added to the Colton Municipal Code to read as follows:

“2.04.040 Executive Assistant to the Council/Office Manager

The City Council shall have the authority to appoint, supervise and remove the Executive Assistant to the Council/Office Manager, who shall serve at the will and pleasure of the City Council in accordance with the Compensation and Benefits Resolution for Non-Represented Confidential Group Employees of the City of Colton, but who shall be a member of the civil service system as provided for in Chapter 2.48 of the Colton Municipal Code. Actions of the City Council taken pursuant to this section shall be by at least a majority vote (at least 4) of the entire membership of the City Council; provided, however, that any termination decision shall be by at least a super majority vote (at least 5) of the entire membership of the City Council. The employee shall take direction from the Mayor and each Council Member individually. If a title change is implemented for the position of Executive Assistant to the Council/Office Manager, the provisions of this section shall apply to such position even before an amendment to this section may be adopted.”

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Section 2. Section 2.16.070 (Powers and Duties).

Sub-Paragraph (B) of Section 2.16.070 (Powers and Duties) of Chapter 2.16 (City Manager) is hereby amended to read as follows:

“....

B. To appoint, on the basis of merit and, when necessary for the good of the City, demote or remove all department heads of the City, except as otherwise provided in this section, and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office.

1. Persons appointed or promoted to the following department head positions on or after June 5, 2001, shall serve at the will and pleasure of the City Manager and may be terminated from City employment by the City Manager without proof of cause or other justification and without right of appeal or hearing:

- a. Assistant City Manager;
- b. Finance Director;
- c. Community Development Director;
- d. Human Resources Manager;
- e. Police Chief;
- f. Fire Chief;
- g. Parks, Recreation and Family Services Director;
- h. City Engineer;
- i. Utility Director;
- j. Redevelopment Agency Director;
- k. Librarian;
- l. Public Services Manager;
- m. Assistant Utility Director;
- n. Community Childcare Director.

2. Any person appointed or promoted to a new department head classification created by Resolution on or after June 5, 2001, shall also serve at the will and pleasure of the City Manager and may be terminated from City employment by the City Manager without proof of cause or other justification and without right of appeal or hearing.

3. Department heads appointed or promoted to their Department Head positions prior to June 5, 2001, Shall have the right to be terminated only under the provisions of

1 this municipal code as it existed at the time of their
2 appointment to the position, unless they modify the terms
3 of their employment pursuant to a contract as described
4 below.

4 4. The City Manager is empowered to enter into contracts on
5 behalf of the City with department heads establishing terms
6 and conditions of employment. Said employment contracts
7 shall take precedence over and supersede any otherwise
8 applicable Ordinance, Resolution, rule or regulation,
9 previous or current, including, but not limited to,
10 subsection 2 16.070(B).

11 5. The City Manager has authority to negotiate the terms and
12 conditions of employment contracts with department heads
13 pursuant to the established limitations and ranges within the
14 executive unit memorandum of understanding ("MOU")
15 which is in effect at the time of such negotiations.

16 6. In addition to the limitations and ranges of the executive
17 unit MOU, the City Manager has authority to negotiate
18 with department heads to increase certain benefits in
19 employment contracts. Specifically, the City Manager may:
20 1) allow up to one additional week of accrued vacation over
21 and above the amount specified in the executive unit MOU;
22 and 2) negotiate a "bank" of sick leave and vacation time
23 which new department heads receive upon beginning
24 employment with the City. The negotiated amounts for a
25 beginning "bank" of sick leave shall not exceed one
26 hundred hours and for vacation time the amount shall not
27 exceed eighty hours. Any employment contract provisions
28 under negotiation that exceed these amounts or that exceed
the limitations and ranges in the existing executive unit
MOU shall be submitted to the City Council for approval.

7. Nothing in this subsection shall be deemed to give the City
Manager the right to appoint or remove the Executive
Assistant to the Council/Office Manager, City Clerk, City
Treasurer or the City Attorney."

Section 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision,

1 paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section,
2 subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

3
4 **Section 4. Effective Date.**

5 The City Clerk shall certify to the passage of this Ordinance and cause the same or a
6 summary thereof to be published within fifteen (15) days after adoption in a newspaper of general
7 circulation, printed and published in Colton, California, and the Ordinance shall take effect thirty
8 (30) days after its enactment in accordance with the provisions of California law.

9 **PASSED, APPROVED AND ADOPTED** on this 18th day of September, 2012.

10
11 
12 SARAH S. ZAMORA,
13 Mayor

14 ATTEST:

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16 EILEEN C. GOMEZ, CMC
17 City Clerk

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CERTIFICATION

I, EILEEN C. GOMEZ, City Clerk of the City of Colton, California, do hereby certify that the foregoing ordinance (O-09-12) was properly introduced and subsequently adopted at a regular meeting of the City Council of the City of Colton, California, duly held on the 18th day of September, 2012 by the following vote of the City Council:

AYES:	COUNCIL MEMBER:	Toro, Gonzales, Yzaguirre, Oliva, Bennett, Perez, and Mayor Zamora
NOES:	COUNCIL MEMBER:	None
ABSENT:	COUNCIL MEMBER:	None
ABSTAINED:	COUNCIL MEMBER:	None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Colton, California, this _____ day of _____, 2012.

Eileen C. Gomez, CMC
City Clerk

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SUMMARY

On September 18, 2012, the Colton City Council will consider adopting an ordinance (O-09-12) adding Section 2.04.040 to the Colton Municipal Code relating to the supervision of the Executive Assistant to the Council/Office Manager and making other clarifying changes to Section 2.16.070(B) of the Colton Municipal Code.

The City Council meets at 6:00 p.m. in the Council Chambers in the Colton City Hall, located at 650 N La Cadena Drive, Colton, CA 92324. The City Clerk's office is located in City Hall near the Council Chambers.