

## ORDINANCE NO. 3268

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, REPEALING SECTION 2.02.020 OF CHAPTER 2.02 OF TITLE 2 OF THE FULLERTON MUNICIPAL CODE RELATING TO COUNCIL VACANCIES

WHEREAS, in 2011, the City Council of the City of Fullerton adopted Ordinance No. 3166, adding Section 2.02.020 to the Fullerton Municipal Code relating to the filling of City Council vacancies pursuant to Government Code section 36512; and

WHEREAS, at the time Section 2.02.020 was added to the Fullerton Municipal Code, Government Code section 36512 provided that any person appointed by the City Council to fill a vacancy on the City Council would hold office for the unexpired term of the former incumbent; and

WHEREAS, Section 2.02.020 was added to the Fullerton Municipal Code pursuant to an optional procedure set forth in Government Code section 36512(c)(3), which allows a city to adopt an ordinance to provide that a person appointed to fill a vacancy on the city council holds office only until the date of a special election; and

WHEREAS, Government Code section 36512(b) was amended in 2015 to add subsection (b)(2), which provides that if a city council fills a vacancy by appointment, the person appointed to fill the vacancy shall either A) hold office until a person elected at the next general municipal election has been qualified, after which the person elected to fill the vacancy shall hold office for the unexpired balance of the term of office, or B) hold office for the unexpired term of the former incumbent, if the vacancy occurs in the first half of a term of office, but less than 130 days prior to the next general municipal election, or if the vacancy occurs in the second half of a term of office; and

WHEREAS, the City Council desires to repeal Fullerton Municipal Code Section 2.02.020 and follow the procedure set forth in Government Code section 36512(b)(2) when it fills a vacancy by appointment.

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

SECTION 1. Section 2.02.020 of Chapter 2.02 of Title 2 of the Fullerton Municipal Code is hereby repealed.

SECTION 2. Any provision of the Fullerton Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision will 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, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses may be declared unconstitutional.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the manner required by law. This Ordinance shall become effective thirty days from and after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON NOVEMBER 6, 2018.

  
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Douglas B. Chaffee, Mayor

  
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Lucinda Williams, City Clerk

Date November 14, 2018

City of Fullerton  
ORDINANCE CERTIFICATION

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE     ) SS  
CITY OF FULLERTON     )

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I, Lucinda Williams, City Clerk and ex-officio Clerk of the City Council of the City of Fullerton, California, hereby certifies that the whole number of the members of the City Council of the City of Fullerton is five; and that the above and foregoing Ordinance No. 3268 had first reading by title only, introduction and further reading waived at the October 16, 2018 City Council regular meeting and was adopted at the November 6, 2018 City Council regular meeting by the following vote:

COUNCIL MEMBER AYES:	Fitzgerald, Silva, Whitaker
COUNCIL MEMBER NOES:	Sebourn
COUNCIL MEMBER ABSTAINED:	Chaffee
COUNCIL MEMBER ABSENT:	None



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Lucinda Williams, City Clerk