

ORDINANCE NO. _____

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF RIALTO, CALIFORNIA, EXTENDING A
MORATORIUM ON ANY CONSTRUCTION, ALTERNATIONS,
OR IMPROVEMENTS WITHIN THE REDUCED SETBACK
AREAS AS ESTABLISHED BY RIALTO MUNICIPAL CODE
SECTION 18.56.030 FOR AN ADDITIONAL ONE HUNDRED
AND TWENTY (120) DAYS OR UNTIL AN ORDINANCE
ADDRESSING THE ISSUES RAISED BY ALLOWING
CONSTRUCTION, ALTERATIONS, OR IMPROVEMENTS
WITHIN THE REDUCED SETBACK AREAS IS ADOPTED**

WHEREAS, the City of Rialto ("City") has the police power, pursuant to Article XI, section 7 of the California Constitution, to make and enforce ordinances to regulate the use of land within its jurisdictional boundaries, to the extent such regulations are not in conflict with the general laws of the State of California; and

WHEREAS, Government Code Section 65858 expressly authorizes the City Council, to protect public health, safety and welfare, to adopt an interim urgency ordinance prohibiting a use that is in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, provided that the urgency measure shall require a four-fifths vote of the legislative body for adoption, and shall be of no further force and effect 45 days from its date of adoption, unless duly extended; and

WHEREAS, on or about December 8, 2009, the City Council amended Rialto Municipal Code ("RMC") section 18.56.030 to reduce the required front, side and rear yard setbacks in residential zones ("reduced setback areas") and permit construction of fences, hedges, walls and pilasters within said setbacks subject to the conditions specified in RMC section 18.56.030; and

WHEREAS, on February 26, 2019, the City Council adopted Ordinance No. 1615, an urgency ordinance establishing a 45-day moratorium on any construction, alterations, or

1 improvements within the reduced setback areas (the "Moratorium"), by a unanimous vote;
2 and

3 **WHEREAS**, the Moratorium will expire on April 12, 2019, unless extended pursuant to
4 Government Code Section 65858, which authorizes the City Council, after notice pursuant to
5 Government Code Section 65090 and a public hearing, to adopt an ordinance extending the
6 Moratorium for 10 months and 15 days, upon approval by a four-fifths vote, and upon making
7 the same findings required for initial adoption of the Moratorium; and

8 **WHEREAS**, Government Code Section 65858(d) requires the City Council, ten days
9 prior to expiration of the Moratorium or any extension thereof, to issue a written report
10 describing the measures taken to alleviate the condition which led to the adoption of the
11 Moratorium; and

12 **WHEREAS**, in accordance with Government Code Section 65858(d), the City Council
13 hereby approves the ten-day report, attached hereto as Exhibit "A", describing the measures
14 being taken to alleviate the condition which led to the adoption of the Moratorium; and

15 **WHEREAS**, the City Council has determined that any new construction, alterations, or
16 improvements in the aforementioned reduced setback areas remains in conflict with other
17 standards and continues to impact utility easements within such reduced setback areas,
18 which may interfere with the provision of utility services resulting in an immediate threat to
19 public health, safety, and welfare; and

20 **WHEREAS**, City staff requires more time after April 12, 2019 to complete the
21 measures necessary to alleviate the condition which led to the adoption of the Moratorium;
22 and

23 **WHEREAS**, the City Council wishes to extend the Moratorium for a period of one
24 hundred and twenty (120) days or until the City Council adopts an ordinance addressing the
25 issues raised by allowing construction, alterations, or improvements within the reduced
26 setback areas, whichever occurs first; and

27 **WHEREAS**, at a duly noticed public hearing on April 9, 2019, testimony and evidence
28 was heard and presented from all persons interested in affecting said proposal to extend the

1 Moratorium, from all persons protesting the same and from members of the City staff, and
2 the City Council has reviewed, analyzed, considered, and studied all oral and written
3 testimony and evidence presented at such public hearing, including staff reports and
4 presentations by City Staff.

5 **NOW, THEREFORE,** the City Council of the City of Rialto hereby finds and ordains as
6 follows:

7 **SECTION 1.** The City Council finds the recitals contained in this Ordinance to be true
8 and correct, relies upon them in passing this Ordinance, and incorporates them herein as
9 though set forth in full herein.

10 **SECTION 2.** The City finds that there is a current and immediate threat to public
11 health, safety, and welfare posed by any construction, alterations, or improvements made in
12 the residential reduced setback areas established by Rialto Municipal Code Section
13 8.56.030. An interim urgency ordinance which imposes and extends the Moratorium is
14 therefore necessary to protect immediate public safety, health, and welfare pursuant to
15 Government Code Sections 65858, 36934 and 36937.

16 **SECTION 3.** In accordance with Government Code Section 65858(d), the City
17 Council issued a written report describing the measures being taken to alleviate the
18 conditions that led to the adoption of the Moratorium and this extension thereof.

19 **SECTION 4.** The City Council hereby extends the Moratorium on any construction,
20 alterations, or improvements made in the residential reduced setback areas established by
21 Rialto Municipal Code Section 8.56.030 pursuant to Government Code Section 65858.

22 **SECTION 5.** The Moratorium is hereby extended for an additional one hundred and
23 twenty (120) days beyond its original expiration date, such that the Moratorium will now
24 expire on August 10, 2019, or until the City Council adopts an ordinance addressing the
25 issues raised by allowing construction, alterations, or improvements within the reduced
26 setback areas, whichever occurs first.
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1 **SECTION 6.** This Moratorium is enacted pursuant to the authority conferred upon the
2 City Council of the City of Rialto by Government Code Sections 65858, 36934 and 36937,
3 and shall remain in full force and effect immediately upon its adoption by a four-fifths (4/5)
4 vote of the City Council. This Moratorium shall continue in effect until August 10, 2019, or
5 until the City Council adopts an ordinance addressing the issues raised by allowing
6 construction, alterations, or improvements within the reduced setback areas, whichever
7 occurs first, and shall thereafter be of no further force and effect unless, after a duly noticed
8 public hearing, the City Council further extends the Moratorium for an additional period of
9 time pursuant to Government Code Section 65858.

10 **SECTION 7.** During the period of this Moratorium, and any extension thereof, the City
11 Administrator or his designees shall: (1) review and consider options for the regulation of
12 reduced setback areas, and (2) shall issue a written report describing the measures which
13 the City has taken to address the conditions which led to the adoption of this Ordinance with
14 the City Council ten (10) days prior the expiration of this Moratorium, or any extension
15 thereof, and such report shall be made available to the public.

16 **SECTION 8.** The City of Rialto may enforce any provision of this Ordinance by
17 mandamus, injunction, or any other appropriate civil remedy in any court of competent
18 jurisdiction.
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20 **SECTION 9.** Pursuant to Section 15378(b)(5) of the California Environmental Quality
21 Act (CEQA), this Ordinance is an organizational or administrative activity of the City that will
22 not result in direct or indirect physical changes in the environment, and therefore not a
23 project. Additionally, pursuant to CEQA Guidelines Section 15061(b)(3), this Ordinance is
24 exempt from CEQA review because there is no possibility that the Moratorium may have a
25 significant effect on the environment, insofar as it prohibits the construction, alterations and
26 improvements within the reduced setback areas established by RMC section 18.56.030.
27 Furthermore, even if the Ordinance is considered a project, the proposed moratorium is
28 categorically exempt under CEQA Guidelines Section 15308, because it is clear that the

1 moratorium will not create an environmental impact and the action will assure the
2 maintenance, enhancement, or protection of the environment through the eventual adoption
3 of regulations and development standards on reduced setback areas. Accordingly, no further
4 environmental review is necessary.

5 Furthermore, as the Ordinance is an administrative procedure related to uses,
6 facilities, and regulations identified in the Rialto Municipal Code and General Plan, and given
7 that the proposed Ordinance is not related to a specific project, the Ordinance (i) by virtue of
8 the location of affected improvements, will not impact a sensitive environmental resource of
9 hazardous or critical concern; (ii) will not have a cumulative impact on the environment
10 through successive projects of the same type, in the same place, over time; (iii) does not
11 have any unusual circumstances that will have a significant effect on the environment; (iv)
12 does not impact a scenic highway; (v) is not located on a hazardous waste site; and (vi) will
13 not adversely impact a historical resource. Accordingly, none of the exceptions to
14 categorical exemptions set forth in the CEQA Guidelines, Section 15300.2, apply to this
15 Ordinance.

16 **SECTION 10.** Every section, provision, or part of this Ordinance is declared
17 severable from every other section, provision, or part of this Ordinance. If any section,
18 provision, or part of this Ordinance is adjudged to be invalid by a court of competent
19 jurisdiction, such judgment shall not invalidate any other section, provision, or part of this
20 Ordinance.
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PASSED, APPROVED AND ADOPTED this 9th day of April, 2019.

Deborah Robertson, Mayor

ATTEST:

Barbara McGee, City Clerk

APPROVED AS TO FORM:

Fred Galante, Esq., City Attorney
Aleshire & Wynder, LLP

1 **Exhibit “A”**

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3 **10-DAY REPORT ON THE 45-DAY URGENCY ORDINANCE ADOPTED BY THE CITY**
4 **COUNCIL OF THE CITY OF RIALTO ESTABLISHING A TEMPORARY MORATORIUM ON**
5 **ANY CONSTRUCTION, ALTERATIONS, OR IMPROVEMENTS WITHIN THE REDUCED**
6 **SETBACK AREAS AS ESTABLISHED BY RIALTO MUNICIPAL CODE SECTION 18.56.030**
7 **[GOV. CODE § 65858(D)]**
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10 **BACKGROUND:**

11 On February 26, 2019, the City Council adopted Urgency Ordinance No. 1615, establishing
12 a 45-day moratorium on any construction, alterations, or improvements within the reduced
13 setback areas as established by Rialto Municipal Code (“RMC”) section 18.56.030
14 (“Moratorium”). The adoption of the Moratorium was necessitated by the fact that any new
15 construction, alterations, or improvements within the reduced setback areas could be in
16 conflict with other standards and impact utility easements within such reduced setbacks,
17 which may interfere with the provision of utility services and may result in a threat to public
18 health, safety and welfare.

19 Pursuant to Government Code Section 65858(d), the City must issue a written report
20 describing the measures taken to alleviate the conditions which led to the adoption of the
21 Moratorium at least 10 days prior to the expiration of the 45-day moratorium.
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24 **MEASURES TAKEN TO ALLEVIATE THE CONDITIONS THAT LED TO THE ADOPTION**
25 **OF THE URGENCY ORDINANCE:**

26 1. The City has assembled a technical and legal team that will be needed to analyze
27 conflicts with utilities created by allowing construction, alterations, or improvements in the
28 reduced setback areas and whether developments approved after the adoption of the

1 revisions to section 18.56.030 can retain the reduced setback, while older developments
2 should revert to the original setback to avoid such conflicts.

3 2. City Staff has commenced the process to amend the zoning ordinance (RMC Chapter
4 18.56) including researching the potential impacts of having the setback revert back to the
5 fifteen (15) foot distance from the public right of way throughout all residential neighborhoods
6 approved before the adoption of revisions to section 18.56.030 with the goal of minimizing
7 potential impacts on those that have lawfully constructed improvements within such reduced
8 setback areas.

9 3. City Staff has commenced reviewing other City plans and documents that may need
10 to be amended to implement the contemplated regulations.
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13 CONTINUED NEED FOR THE MORATORIUM:

14 Despite City Staff's efforts, the conditions which necessitated adoption of the Moratorium
15 continue to exist at the present time. Extending the Moratorium will provide City Staff with
16 necessary time to complete its analysis, research and development of appropriate
17 regulations for allowing construction, alterations, or improvements within the reduced
18 setback areas to ensure the protection of the public health, safety and welfare. These
19 regulations require public outreach, additional study, and a public hearing before the
20 Planning Commission. These tasks cannot be completed within the initial 45-day period
21 which ends on April 12, 2019. Therefore, the proposed urgency ordinance extending the
22 Moratorium for a period of one hundred and twenty (120) days would be appropriate, such
23 that the Moratorium will expire on August 10, 2019, or until the City Council adopts an
24 ordinance addressing the issues raised by allowing construction, alterations, or
25 improvements within the reduced setback areas, whichever occurs first.
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