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

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
RIALTO, CALIFORNIA, ESTABLISHING A TEMPORARY  
MORATORIUM ON ANY CONSTRUCTION OR ALTERATIONS OF  
ACCESSORY DWELLING UNITS WITHIN THE CITY OF RIALTO**

**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, in order 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**, Government Code Sections 36934 and 36937 expressly authorize the City Council to enact urgency ordinances, which take effect immediately upon introduction, for the immediate preservation of the public peace, health, or safety, containing a declaration of the facts constituting the urgency, and which must be passed by a four-fifths vote of the City Council; and

**WHEREAS**, the City of Rialto has determined that, while the City is supportive of the growth of accessory dwelling units (ADUs) to address the City's housing concerns, the current ADU regulations under Rialto Municipal Code Section 18.10.020(J) are insufficient to provide the City with proper control over ADU development and growth within the City, and will result in the threats to public health, safety, and/or welfare without further changes to existing regulations; and

1       **WHEREAS**, the City intends to update the Rialto Municipal Code to further  
2 address the potential side effects of ADUs, and to ensure that they are properly regulated  
3 within the City; and

4       **WHEREAS**, City staff, the City Planning Commission, and the City Council, each  
5 requires a reasonable period of time to study existing ADU regulations and development  
6 to determine the potential adverse impacts on the environment, traffic, aesthetics, and  
7 visual quality of properties within the City, and to make recommendations on appropriate  
8 alternative regulations for ADUs within the City; and

9       **WHEREAS**, the City desires to establish, on an urgency basis, a temporary  
10 moratorium on any construction or alteration of ADUs within the City through the adoption  
11 of this Ordinance to further the purposes stated herein.

12       **NOW, THEREFORE**, the City Council of the City of Rialto hereby ordains as  
13 follows:

14       **SECTION 1. Recitals Incorporated.** The City Council finds the recitals contained  
15 in this ordinance to be true and correct, relies upon them in passing this ordinance, and  
16 incorporates them herein as though set forth in full herein.

17       **SECTION 2. Immediate Threat.** The City Council finds that there is a current and  
18 immediate threat to public health, safety, and welfare posed by current ADU development  
19 and overproliferation in the City, due to the insufficiency of regulations under the Rialto  
20 Municipal Code. This Ordinance is necessary as an urgency measure to address said  
21 threats to public health, safety, and welfare.

22       **SECTION 3. Moratorium.** Accordingly, the Rialto City Council hereby adopts a  
23 moratorium pursuant to California Government Code Section 65858 on any construction  
24 or alterations of ADUs in the City ("Moratorium"). From and after the effective date of this  
25 Ordinance, the City shall not accept into plan check, or issue a variance, building permit,  
26 demolition permit, or other applicable entitlement for an accessory dwelling unit, as  
27 defined in Government Code Section 65852. 2 or the Rialto Municipal Code.

1       **SECTION 4. Duration of Ordinance.** This Moratorium is enacted pursuant to the  
2 authority conferred upon the City Council of the City of Rialto by Government Code  
3 Section 65858, and therefore shall be in full force and effect immediately upon its  
4 adoption by a four-fifths (4/5) vote of the City Council. This Moratorium shall continue in  
5 effect for forty-five (45) days from the date of its adoption and shall thereafter be of no  
6 further force and effect, unless, after notice pursuant to Government Code Section 65090  
7 and a public hearing, the City Council extends the Moratorium for an additional period of  
8 time pursuant to Government Code Section 65858.

9       **SECTION 5. Enforcement.** The City of Rialto may enforce any provision of this  
10 Ordinance by mandamus, injunction, or any other appropriate civil remedy in any court of  
11 competent jurisdiction.

12       **SECTION 6. City Action.** During the period of this Moratorium, and any extension  
13 thereof, the City Administrator or his designees shall: (1) review and consider options for  
14 the regulation of ADUs and (2) shall issue a written report describing the measures which  
15 the City has taken to address the conditions which led to the adoption of this ordinance  
16 with the City Council ten (10) days prior the expiration of this Moratorium, or any  
17 extension thereof, and (3) shall make said report available to the public.

18       **SECTION 7. Environmental review.** Pursuant to Section 15378(b)(5) of the  
19 California Environmental Quality Act (CEQA), this Ordinance is an organizational or  
20 administrative activity of the City that will not result in direct or indirect physical changes  
21 in the environment, and therefore not a project. Additionally, pursuant to CEQA  
22 Guidelines Section 15061(b)(3), this Ordinance is exempt from CEQA review because  
23 there is no possibility that the Moratorium may have a significant effect on the  
24 environment, insofar as it prohibits the construction of or alterations to, ADUs within the  
25 City. Furthermore, even if the Ordinance is considered a project, the proposed  
26 moratorium is categorically exempt under CEQA Guidelines Section 15308, because it is  
27 clear that the Moratorium will not create an environmental impact and the action will  
28 assure the maintenance, enhancement, or protection of the environment through the

1 eventual adoption of regulations and development standards on ADUs. Accordingly, no  
2 further environmental review is necessary.

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

14 **SECTION 8. Severability.** Every section, provision, or part of this Ordinance is  
15 declared severable from every other section, provision, or part of this Ordinance. If any  
16 section, provision, or part of this Ordinance is adjudged to be invalid by a court of  
17 competent jurisdiction, such judgment shall not invalidate any other section, provision, or  
18 part of this ordinance.

19 **SECTION 9. Effective Date.** This Ordinance shall take effect immediately and  
20 shall be of no further force and effect forty-five (45) days thereafter unless the City  
21 Council extends such Ordinance following a noticed public hearing.

22 PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019.

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25 DEBORAH ROBERTSON, Mayor

26 ATTEST:

27 \_\_\_\_\_  
28 BARBARA McGEE, City Clerk

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APPROVED AS TO FORM

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FRED GALANTE, City Attorney

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN BERNARDINO ) ss  
3 CITY OF RIALTO )

4 I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the  
5 foregoing Ordinance No. \_\_\_\_\_ was duly passed and adopted at a regular meeting  
6 of the City Council of the City of Rialto held on the \_\_\_\_\_ day of  
7 \_\_\_\_\_, 2019.

8 Upon motion of Councilmember \_\_\_\_\_, seconded by  
9 Councilmember \_\_\_\_\_, the foregoing Ordinance No. \_\_\_\_\_ was  
10 duly passed and adopted.

11 Vote on the Motion:

12 AYES:

13 NOES:

14 ABSENT:

15 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the  
16 City of Rialto, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

17 \_\_\_\_\_  
18  
19 Barbara A. McGee, City Clerk

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