

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, ESTABLISHING A TEMPORARY 45-DAY MORATORIUM ON THE ESTABLISHMENT, EXPANSION, OR MODIFICATION OF WAREHOUSES, DISTRIBUTION CENTERS, AND RELATED USES THAT ARE LOCATED ADJACENT TO OR ACROSS A STREET OR INTERSECTION FROM EXISTING RESIDENTIAL AND EDUCATIONAL USES WITHIN THE CITY OF RIALTO, EXCLUDING THE RENAISSANCE SPECIFIC PLAN

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, due to the recent and rapid expansion of e-commerce in recent years, the City has seen an exponential increase in industrial developments within the City and neighboring communities, particularly warehouses, distribution centers, and logistics facilities (collectively, "Warehouses"),

1 which include any use for the conduct, business, or management of warehousing,
2 storing, safekeeping, freight forwarding, handling, keeping inventory, and/or distribution
3 activities for any product or component, including but not limited to goods, wares,
4 consumer products, materials, or merchandise, partially or wholly within an enclosed
5 space, building, or other structure; and

6 **WHEREAS**, with this increase in Warehouses, residents and businesses within
7 the City have faced increased truck traffic and the following related adverse impacts:

- 8 • Increased safety risk for smaller vehicles, pedestrians, and bicyclists;
- 9 • Damage to City streets and property/facilities from collisions (reported and
10 unreported), such as street lights, traffic signal equipment, signs, trees, curbs,
11 medians, etc.;
- 12 • Traffic congestion and reduced levels of service on streets and at intersections;
- 13 • Increased impacts from improperly over-loaded trucks; and

14 **WHEREAS**, the City has additional concerns regarding the compatibility of
15 Warehouse uses that are adjacent or near to sensitive uses such as schools and
16 residences, as Warehouses oftentimes operate on a 24-hour basis and cause
17 deteriorating air quality, health, noise, vibration, and other disruptions to the peace and
18 quiet that is necessary for the enjoyment of residential neighborhoods and efficacy of
19 educational uses; and

20 **WHEREAS**, the close proximity of Warehouses to schools and residential uses
21 also causes a decline in aesthetic standards and visual quality to those living in the
22 residences and going to schools; and

23 **WHEREAS**, the City of Rialto has determined that Warehouse uses have an
24 detrimental impact upon the City, which are not being addressed by the City's current
25 ordinances and zoning regulations; and

26 **WHEREAS**, there is a need to study and develop policy guidance to ensure there
27 is logical relationship between the placement of Warehouses and available truck routes
28 to avoid the deleterious effects of routing trucks past sensitive uses; and

1 **WHEREAS**, although Ordinance No. 1633, adopted by the City Council on
2 January 14, 2020, requires the approval of a Conditional Use Permit to establish a
3 Warehouse in all zones and Specific Plans where Warehouses were previously permitted
4 by right, there is a need for additional locational criteria and other policy guidance to
5 protect sensitive uses and address the various issues associated with warehouses in
6 general; and

7 **WHEREAS**, the City intends to update the Rialto Municipal Code to further
8 address the potential side effects of Warehouses adjacent to or across a street or
9 intersection from existing residential and educational uses, and to ensure that they are
10 properly regulated within the City; and

11 **WHEREAS**, City staff, the City Planning Commission, and the City Council, each
12 requires a reasonable period of time to study existing Warehouse regulations and
13 developments to determine the potential adverse impacts on the environment, traffic,
14 aesthetics, and visual quality of properties within the City, and to make recommendations
15 on appropriate alternative regulations for Warehouses adjacent or near to residential and
16 educational uses within the City; and

17 **WHEREAS**, the City desires to establish, on an urgency basis, a temporary
18 moratorium on the establishment, expansion, or modification of Warehouses adjacent to
19 or across a street or intersection from existing residential and educational uses within the
20 City through the adoption of this Ordinance to further the purposes stated herein.

21 **NOW, THEREFORE**, the City Council of the City of Rialto hereby ordains as
22 follows:

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

26 **SECTION 2. Immediate Threat.** The City Council finds that there is a current and
27 immediate threat to public health, safety, and welfare posed by current Warehouse
28 development and overproliferation in the City adjacent to or across a street or intersection

1 from existing residential and educational uses, due to the insufficiency of regulations
2 under the Rialto Municipal Code. As stated above, the rapid development and expansion
3 of Warehouses within the City has increased truck traffic, caused extensive damage to
4 local streets, contributed to the loss of potential economic revenue, and is deteriorating
5 the air quality, noise, and aesthetics of the City. This Ordinance is necessary as an
6 urgency measure to address said threats to public health, safety, and welfare.

7 **SECTION 3. Moratorium.** Accordingly, the Rialto City Council hereby adopts a
8 moratorium pursuant to California Government Code Section 65858 on any
9 establishment, expansion, or modification of Warehouses and related uses adjacent to or
10 across a street or intersection from existing residential and educational uses anywhere
11 within the City, excluding within the Renaissance Specific Plan ("Moratorium"). During
12 the Moratorium, the City shall not accept any new applications, or issue any permits or
13 entitlements to those that submit applications after February 6, 2020, for such uses.

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

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

25 **SECTION 6. City Action.** During the period of this Moratorium, and any extension
26 thereof, the City Manager or his designees shall: (1) review and consider options for the
27 regulation of Warehouses and related uses, and (2) shall issue a written report describing
28 the measures which the City has taken to address the conditions which led to the

1 adoption of this ordinance with the City Council ten (10) days prior the expiration of this
2 Moratorium, or any extension thereof, and (3) shall make said report available to the
3 public.

4 **SECTION 7. Environmental review.** Pursuant to Section 15378(b)(5) of the
5 California Environmental Quality Act (CEQA), this Ordinance is an organizational or
6 administrative activity of the City that will not result in direct or indirect physical changes
7 in the environment, and therefore not a project. Additionally, pursuant to CEQA
8 Guidelines Section 15061(b)(3), this Ordinance is exempt from CEQA review because
9 there is no possibility that the Moratorium may have a significant effect on the
10 environment, insofar as it prohibits the construction of or alterations to, truck parking or
11 logistics facilities within the City. Furthermore, even if the Ordinance is considered a
12 project, the proposed moratorium is categorically exempt under CEQA Guidelines
13 Section 15308, because it is clear that the Moratorium will not create an environmental
14 impact and the action will assure the maintenance, enhancement, or protection of the
15 environment through the eventual adoption of regulations and development standards on
16 truck parking or logistics facilities. Accordingly, no further environmental review is
17 necessary.

18 Furthermore, as the Ordinance is an administrative procedure related to uses,
19 facilities, and regulations identified in the Rialto Municipal Code and General Plan, and
20 given that the proposed Ordinance is not related to a specific project, the Ordinance (i) by
21 virtue of the location of affected improvements, will not impact a sensitive environmental
22 resource of hazardous or critical concern; (ii) will not have a cumulative impact on the
23 environment through successive projects of the same type, in the same place, over time;
24 (iii) does not have any unusual circumstances that will have a significant effect on the
25 environment; (iv) does not impact a scenic highway; (v) is not located on a hazardous
26 waste site; and (vi) will not adversely impact a historical resource. Accordingly, none of
27 the exceptions to categorical exemptions set forth in the CEQA Guidelines, Section
28 15300.2, apply to this Ordinance.

1 **SECTION 8. Severability.** Every section, provision, or part of this Ordinance is
2 declared severable from every other section, provision, or part of this Ordinance. If any
3 section, provision, or part of this Ordinance is adjudged to be invalid by a court of
4 competent jurisdiction, such judgment shall not invalidate any other section, provision, or
5 part of this ordinance.

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

9
10 PASSED, APPROVED AND ADOPTED this 11th day of February, 2020.

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13 _____
DEBORAH ROBERTSON, Mayor

14 ATTEST:

15 _____
16 BARBARA McGEE, City Clerk

17
18 APPROVED AS TO FORM

19 _____
20 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 _____, 2020.

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 _____, 2020.

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18 _____
19 Barbara A. McGee, City Clerk
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