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ORDINANCE NO. 1638

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO  
TEMPORARILY PROHIBITING EVICTIONS OF RESIDENTIAL TENANTS ARISING  
FROM INCOME LOSS OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO THE  
CORONAVIRUS PANDEMIC**

**WHEREAS**, the City of Rialto (“City”) is authorized by Article XI, Section 7 of the California Constitution to make and enforce all regulations and ordinances using its police powers;

**WHEREAS**, Government Code sections 36934 and 36937 authorize ordinances to take effect immediately if they are for the immediate preservation of the public peace, health or safety, contain a declaration of the facts constituting the urgency, and are passed by a four-fifths vote of the City Council;

**WHEREAS**, the California Emergency Services Act (California Government Code section 8550, et. seq.) defines a local emergency as the existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a city, caused by conditions such as an epidemic, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of a city, and require the combined forces of other political subdivisions to combat;

**WHEREAS**, Chapter 2.28, section 2.28.020 of the City of Rialto Municipal Code defines an emergency as the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this city caused by such conditions as, but not limited to, air pollution, fire, flood, storm, epidemic, riot, or earthquake, or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this city, requiring the combined forces of other political subdivisions to combat;

**WHEREAS**, the State of California, including the City of Rialto, is experiencing an unprecedented and critical emergency related to the novel coronavirus (“COVID-19”) pandemic;

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1           **WHEREAS**, states of emergency have recently been proclaimed at the local, state, and  
2 federal government levels related to the COVID-19 pandemic;

3           **WHEREAS**, on March 12, 2020 the City Council declared that the existence and  
4 anticipated spread of COVID-19 is a local emergency, as defined by the California Emergency  
5 Services Act (California Government Code section 8550, et. seq.);

6           **WHEREAS**, due to the pandemic, San Bernardino County schools have suspended in-  
7 person classes through May 1, 2020;

8           **WHEREAS**, on March 17, 2020, the San Bernardino County Public Health Officer issued  
9 an order requiring County residents to shelter in place through April 6, 2020 in order to stop  
10 community spread of COVID-19, subject to exceptions for the provision and receipt of essential  
11 services, and this order may be continued as necessary to address the pandemic;

12           **WHEREAS**, on March 19, 2020, Governor Gavin Newsom issued a shelter in place order  
13 for the entire State of California;

14           **WHEREAS**, in order to comply with the shelter in place order, and for their own safety,  
15 City residents must have access to permanent housing;

16           **WHEREAS**, the COVID-19 pandemic and associated public health and shelter in place  
17 orders are expected to result in the closure of most local businesses until at least April 6, 2020,  
18 and likely longer, and result in extreme restrictions on other local businesses until then and  
19 possibly thereafter, possibly resulting in tenants suffering a decrease in income;

20           **WHEREAS**, many of the renters in the state including the City of Rialto, spend over 30%  
21 of their annual income on rent already;

22           **WHEREAS**, on March 16, 2020, Governor Gavin Newsom issued Executive Order N-28-  
23 20, which authorizes local jurisdictions to suspend the evictions of tenants for the non-payment of  
24 rent if the non-payment is a result of the COVID-19 pandemic;

25           **WHEREAS**, without local protection, eviction notices for failure to pay rent are likely to  
26 surge as residents and businesses are unable to earn income due to the pandemic, or are forced to  
27 pay substantial medical expenses associated with the pandemic (including unanticipated and  
28 increased costs for food, medicine, medical supplies, medical care and other necessities);

1           **WHEREAS**, particularly given the high existing cost of housing, evictions of tenants,  
2 particularly low income tenants, could lead to long term or permanent displacement, impacting  
3 the health and safety of these tenants, as well as the City of Rialto;

4           **WHEREAS**, the City Council is concerned that, during the COVID-19 pandemic,  
5 eviction notices and threats of eviction based on failure to pay rent will surge; and

6           **WHEREAS**, the Director of Emergency Services and the City Council of the City of  
7 Rialto have determined that it is appropriate to temporarily prohibit evictions until the  
8 authorization to suspend evictions under Executive Order N-28-20, as may be revised or  
9 superseded, terminates or the City Council declares an end to the local emergency, whichever  
10 occurs first, for any residential tenant who can demonstrate that they are being evicted for the  
11 failure to pay rent and that such failure is a direct impact of the COVID-19 pandemic, as provided  
12 in Governor Newsom’s Executive Order N-28-20. A copy of the Executive Order is attached to  
13 this Ordinance.

14           **NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE**  
15 **CITY OF RIALTO AS FOLLOWS:**

16           **SECTION 1. DECLARATION OF URGENCY; ORDINANCE ADOPTED.**

17           The City Council of the City of Rialto incorporates the recitals of fact above by reference  
18 and hereby finds and declares that they constitute an urgency situation requiring the City Council  
19 to take immediate action to preserve the public peace, health or safety. Without Council action,  
20 City of Rialto tenants would suffer potentially irreversible displacement of tenants resulting from  
21 evictions arising from the COVID-19 pandemic. The City Council, therefore, hereby adopts the  
22 Urgency Ordinance attached hereto as Exhibit “A”, pursuant to California Government Code  
23 Section 36937.

24           **SECTION 2. EFFECTIVE DATE; VOTE REQUIREMENTS.**

25           This Ordinance shall take effect and be in force immediately upon an affirmative vote of  
26 four-fifths of the City Council and shall remain in effect until the authorization to suspend  
27 evictions under State Executive Order N-28-20, as may be revised or superseded, terminates or  
28 the City Council declares an end to the local emergency, whichever occurs first.

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**SECTION 3. SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, 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 and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 4. CODIFICATION.**

This urgency ordinance shall not be codified in the City of Rialto Municipal Code.

**SECTION 5. CEQA.**

The City Council hereby finds that the action to adopt this Ordinance will not result in any change in the environment and thus is not a project subject to the requirements of CEQA. Further, even if the action to adopt this Ordinance was deemed to be a project subject to CEQA, the City Council finds the proposed Ordinance is exempt from CEQA under the common sense exemption set forth in Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and thus where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 6. AUTHORITY PURSUANT TO THE CALIFORNIA EMERGENCY SERVICES ACT AND RIALTO MUNICIPAL CODE.**

Pursuant to Cal. Gov. Code Section 8610, the City, while in a state of emergency proclaimed by the Director of Emergency Services and ratified by the City Council, may establish rules and regulations for dealing with the local emergency. Pursuant to Rialto Municipal Code Section 2.28.060(A)(6)(a), the Director of Emergency Services has the authority to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council. The City Council also thus finds and determines that it has the authority to enact this ordinance pursuant to the California Emergency Services

1 Act, the Rialto Municipal Code and the declaration of local emergency issued by the Rialto City  
2 Council on March 12, 2020.

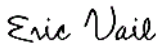
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4 **PASSED, APPROVED AND ADOPTED** this 24th day of March, 2020.

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9 Deborah Robertson, Mayor

10 **ATTEST:**

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13 Barbara McGee, City Clerk

14 **APPROVED AS TO FORM:**

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16 \_\_\_\_\_  
17 Eric Vail, Interim City Attorney  
18 Burke, Williams & Sorensen, LLP  
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STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO ) ss  
CITY OF RIALTO )

I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing Urgency Ordinance No. 1638 was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the 24<sup>th</sup> day of March, 2020.

Upon motion of Council Member Scott, seconded by Council Member Trujillo, the foregoing Urgency Ordinance No. 1638 was duly passed and adopted.

Vote on the motion:

AYES: Mayor Robertson, Council Member Scott, Trujillo, Carrizales and Baca Jr.

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this 25<sup>th</sup> day of March, 2020.

*Barbara A. McGee*  
\_\_\_\_\_  
BARBARA A. MCGEE, CITY CLERK

**EXHIBIT "A"**

**SECTION 1: PURPOSE.**

This Ordinance temporarily prohibits evictions of residential tenants who can demonstrate that they have received a notice of eviction for failure to pay rent, and that such failure is related to a substantial loss of income or substantial out-of-pocket medical expenses resulting from the 2020 novel coronavirus (COVID-19) pandemic or any local, state, or federal government response to the pandemic.

**SECTION 2: DEFINITIONS.**

The following words and phrases, whenever used in this section, shall be construed as follows:

1. "Dwelling Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one or more persons who maintain a household or common household.
2. "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive rent for the use and occupancy of any Dwelling Unit or portion thereof.
3. "Owner" means any person, acting as principal or through an agent, offering a Dwelling Unit for rent, and includes a predecessor in interest to the owner.
4. "Pandemic" means the 2020 novel coronavirus (COVID-19) pandemic.
5. "Tenant" means any person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Dwelling Unit.

**SECTION 3: PROHIBITION ON EVICTIONS.**

- A. A landlord of any Dwelling Unit or Dwelling Units shall not terminate or attempt to terminate a lawful tenancy for failure to pay rent if the tenant demonstrates that the failure to pay rent is directly related to a substantial loss of income or substantial out-of-pocket medical expenses associated with the coronavirus pandemic or any local, state, or federal government response to the pandemic.
- B. This section shall also apply to a landlord's action that constitutes constructive eviction under California law. Terminations that are required to comply with an order issued by a

1 government agency or court requiring that the real property be vacated are excepted from  
2 this prohibition.

3 C. To take advantage of the protections afforded under this section, a tenant must do all of  
4 the following:

- 5 1. Notify the landlord in writing before the day rent is due that the tenant has a  
6 covered reason for delayed payment. For purposes of this Section, "writing" shall  
7 include emails, text messages, or other forms of electronic communication with  
8 landlord or landlord's representative.
- 9 2. Pay the portion of rent that the tenant is able to pay.
- 10 3. Demonstrate through documentation or other objectively verifiable means that the  
11 tenant has experienced:

- 12 a. Substantial loss of income from: (a) job loss; (b) layoffs; (c) a  
13 reduction in the number of compensable hours of work; (d) a store,  
14 restaurant, office, or business closure; (e) a substantial decrease in  
15 business income caused by a reduction in opening hours or  
16 consumer demand; (f) the need to miss work to care for a home-  
17 bound school-age child or a family member infected with  
18 coronavirus; or (g) other similarly-caused loss of income that  
19 resulted from the pandemic; or
- 20 b. Substantial out-of-pocket medical expenses related to the pandemic.

21 D. Tenants who were afforded eviction protection under this section shall have up to sixty  
22 (60) days after the termination of this ordinance to pay their landlord all unpaid rent.

23 E. Nothing in this section waives a tenant's obligations to pay back rent owed once this  
24 ordinance is no longer effective; provided, however, that a landlord may not file an  
25 unlawful detainer action based on the failure to pay rent while this ordinance is in effect  
26 unless the tenant fails to pay rent when due under Section D of this ordinance.

27 F. Nothing in this section shall relieve a tenant of the obligation to pay rent, nor restrict a  
28 landlord's ability to recover rent due once this ordinance is no longer effective.



1 G. This section shall not apply to any of the following circumstances:

- 2 1. Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940  
3 of the California Civil Code.
- 4 2. Housing accommodations in a nonprofit hospital, religious facility, extended care  
5 facility, licensed residential care facility for the elderly, as defined in Section  
6 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in  
7 Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures  
8 published by the State Department of Social Services.
- 9 3. Dormitories owned and operated by an institution of higher education or a  
10 kindergarten and grades 1 to 12, inclusive, school.

11 **SECTION 4: ENFORCEMENT.**

- 12 A. In the event of a violation of this Ordinance, a Tenant who has been improperly served  
13 with notice of an eviction or an unlawful detainer action may institute a civil proceeding  
14 for an injunction, and the prevailing party shall be entitled to an award of reasonable  
15 attorneys' fees and costs if so ordered by the court.
- 16 B. This Ordinance may be asserted as an affirmative defense in an unlawful detainer action.
- 17 C. A landlord's failure to comply with this Ordinance does not constitute a criminal offense  
18 but may subject an owner to civil fines and penalties as set forth in the Rialto Municipal  
19 Code.
- 20 D. The remedies provided in this Section are in addition to any other existing remedies that  
21 may be available to a Tenant under local, state, or federal law or equity and in no way  
22 limit such existing remedies, if any.

23 **SECTION 5: WAIVER.**

24 A Landlord may request that this Ordinance's requirements be waived or modified based on a  
25 showing that applying the requirements would have an unconstitutional application to the  
26 Landlord's property. A Landlord shall bear the burden of presenting evidence to support any  
27 such request for waiver or modification and shall set forth in detail the factual and legal basis for  
28 the claim, including all supporting documentation, for consideration by the City Council.

1 **SECTION 6: EFFECTIVE DATES.**

2 This Ordinance applies to eviction notices and unlawful detainer actions based on notices served  
3 or filed on or after the effective date of this Ordinance. The prohibitions on evictions shall  
4 continue to apply until the authorization to suspend evictions under Executive Order N-28-20, as  
5 may be modified or superseded, terminates or the City Council declares an end to the local  
6 emergency, whichever occurs first.

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