ORDINANCE NO. 994

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROSEMEAD TEMPORARILY PROHIBITING EVICTIONS OF RESIDENTIAL AND COMMERCIAL TENANTS ARISING FROM INCOME LOSS OR SUBSTANTIAL MEDICAL EXPENSES RELATED TO THE COVID-19 PANDEMIC

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency within the State of California ("State") due to the threat posed by Novel Coronavirus ("COVID-19");

WHEREAS, on March 4, 2020, the Los Angeles County Health Officer issued a Declaration of Local Health Emergency due to the introduction of COVID-19 cases to Los Angeles County;

WHEREAS, on March 4, 2020, Los Angeles County Board of Supervisors ("Board") concurred and issued a Proclamation ("Proclamation") declaring a local emergency within the County of Los Angeles regarding the imminent spread of COVID-19;

WHEREAS, on March 16, 2020, Governor Newsom issued an Executive Order that authorizes local governments to halt evictions for renters, encourages financial institutions to slow foreclosures, and protects renters and homeowners against utility shutoffs for Californians affected by COVID-19;

WHEREAS, on March 19, 2020 Governor Newsom issued an Executive Order that requires all persons to remain at home to the extent possible and requires all non-essential businesses to be closed;

WHEREAS, on March 19, 2020, Kathryn Barger, Chair of the Los Angeles County Board of Supervisors issued an Executive Order prohibiting residential and commercial evictions in the unincorporated portions of the County under certain circumstances;

WHEREAS, on March 21, 2020 the Los Angeles County Department of Public Health issued a clarifying Safer at Home order, requiring all persons to remain at home to the extent possible, unless engaged in essential businesses;

WHEREAS, on March 27, 2020, Governor Newsom issued Executive Order N-37-20, which created certain protections against eviction for residential tenants, but such Order did not address commercial tenants, nor did it provide as much protection for residential tenants as the County's March 19, 2020 Order, nor the City's Ordinance 993, nor did Order N 37-20 preclude adoption by local entities of protections that are greater than those set forth in the Governor's Order; and

WHEREAS, businesses that are temporarily closed by the Safer at Home orders are not generating tax revenues needed for public services, and evictions and replacement of such tenants will further delay generation of tax revenues once the Safer at Home orders are lifted. Further, even businesses that continue in operation as "Essential Businesses" such as restaurants are still subject to reductions in income as a result of the "Safer at Home" orders;

WHEREAS, California Government Code section 8630 et seq. authorize the City to declare a local emergency, which the City Council did at an emergency meeting on March 13, 2020;

WHEREAS, California Government Code sections 8634, 36934 and 36937 authorize the City Council to take action by ordinance to take effect immediately for the preservation of the public peace, health or safety when adopted by a four-fifths vote of the City Council;

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residential and commercial tenants in the City have experienced or expect to experience sudden and unexpected income loss soon;

WHEREAS, further economic impacts are anticipated, leaving tenants unable to pay rent and vulnerable to eviction;

WHEREAS, during this local emergency, and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement, and prevent housed individuals from falling into homelessness.

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

SECTION 1. A temporary moratorium on eviction for non-payment of rent by residential or commercial tenants impacted by the COVID-19 crisis is imposed as set forth herein.

SECTION 2. From March 4, 2020, through the ordinance's its expiration, as set forth herein, in response to COVID-19 no landlord shall endeavor to evict a tenant for nonpayment of rent if the tenant demonstrates that the tenant is unable to pay rent due to Financial Impacts related to COVID-19.

SECTION 3. A landlord who knows that a tenant cannot pay some or all of the rent temporarily for the reasons set forth above in Section 2 shall not serve a notice pursuant to CCP 1161(2), file or prosecute an unlawful detainer action based on a 3-day pay or quit notice, or otherwise seek to evict for nonpayment of rent.

SECTION 4. A landlord shall be deemed to know of a tenant's inability to pay rent within the meaning of this Ordinance if the tenant, within seven (7) days after the date that rent is due, unless extenuating circumstances exist, notifies the landlord in writing and provides documentation, or other objectively variable means, that the tenant is unable to pay rent due to Financial Impacts related to COVID-19. To facilitate communication between a landlord and tenant and an exploration of alternatives, the tenant is encouraged to notify the landlord of financial hardship at the earliest opportunity. For purposes of this Ordinance, "in writing" includes email or text communications to a landlord or the landlord's representative with whom the tenant has previously corresponded by email or text, as well as traditional written communication. Any medical or financial information provided to the landlord shall be held in confidence, and only used for evaluating the tenant's claim.

SECTION 5. Nothing in this Ordinance shall relieve the tenant of liability for the unpaid rent, nor restrict a landlord's ability to recover rent due. A tenant shall not be deemed in default of rent payment obligations unless the Tenant fails to tender rent payments which were unpaid due to Financial Impacts related to COVID-19, within 6 months of May 31, 2020, or within 6 months of the date upon which an extension of this Ordinance expires, whichever is later. A Landlord shall not impose, charge, or collect a late fee or equivalent surcharge for any rent payments which were unpaid due to Financial Impacts related to COVID-19. Tenants and Landlords are encouraged to agree to a payment plan during this six-month period, but nothing in this Ordinance shall be construed to prevent a Tenant from paying a Landlord any amount due incrementally during this six-month period. Any three-day notices to pay or quit or No-Fault eviction notices served prior to the effective date of this ordinance, but not yet expired, are automatically deemed served upon the conclusion of the Moratorium Period.

SECTION 6. For purposes of this Ordinance, "Financial Impacts related to COVID-19" ("Financial Impact") include nonpayment of rent, arising out of a substantial decrease in household or business income (including, but not limited to, a substantial decrease in household income caused by layoffs or a reduction in the number of compensable hours of work, or a substantial decrease in business income caused by a reduction in opening hours or consumer demand), or substantial out-of-pocket medical expenses, or a Tenant's lost household income as a result of caring for minor children affected by school, pre-school and/or childcare closures; *provided that*, the Financial Impact was caused by the COVID-19 pandemic, or by any local, state or federal government response to COVID-19, and is documented.

SECTION 7. This Ordinance applies to terminations of tenancies for nonpayment of rent, including eviction notices, no-fault eviction notices as defined herein, and unlawful detainer actions based on such notices, served or filed during the effective period of this Ordinance. For purposes of this Ordinance, "no-fault eviction notices" refer to any eviction for which the notice to terminate tenancy is not based on alleged fault by the tenant.

SECTION 8. In the event of a violation of this Ordinance, this Ordinance grants a defense where an unlawful detainer action is commenced in violation of this Ordinance. Additionally, an aggrieved tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages, and whatever other relief the court deems appropriate. The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to Ordinance of the court. The remedy available under this section shall be in addition to any other existing remedies which may be available to the tenant under local, state or federal law.

SECTION 9. This moratorium on evictions as described herein shall be in force and effect until May 31, 2020, until and unless superseded by a duly enacted Ordinance of the City Council or a further Ordinance by the Director of Emergency Services adopted during the local emergency that expressly supersedes this Ordinance. Should the Governor extend Executive Order N-28-20, this Ordinance will continue automatically beyond May 31, 2020 to the date of the Governor's extension, unless superseded.

SECTION 10. If any provision of this Ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions, and to this

end, the provisions of this chapter are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable.

SECTION 11. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published in the manner required by law.

SECTION 12. For the reasons set forth above in the recitals, this Ordinance is an urgency ordinance and shall take effect immediately and replace Ordinance 993 upon adoption by a 4/5 vote of the City Council, due to the immediate need to protect the public health, safety and welfare.

PASSED APPROVED AND ADOPTED this 30th day March, 2020.

Sandra Armenta Lopez

Sandra Armenta, Mayor

Attest:

Ericka Hernandez, City Clerk

Approved as to form:

Rachel Richman

Rachel Richman, City Attorney

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Rosemead at its meeting held on the 30th day of March, 2020 by the following vote:

AYES: ARMENTA, CLARK, DANG, LOW, LY

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

Ericka Hernandez
City Clerk