

ORDINANCE NO. 09-25

AN URGENCY ORDINANCE, PURSUANT TO GOVERNMENT CODE SECTION 65858, EXTENDING UNTIL APRIL 15, 2026 A TEMPORARY MORATORIUM ON ALL NEW TOBACCO RETAILERS WITHIN THE CITY OF RICHMOND WHICH WAS ADOPTED BY THE CITY COUNCIL ON APRIL 16, 2024 (ORDINANCE NO. 03-24 N.S.)

WHEREAS, the City of Richmond (“City”) is concerned about this recent proliferation of tobacco retailer businesses, locations of tobacco retailer businesses, and the harmful effects of tobacco on the health, safety, and welfare of City residents and especially youth;

WHEREAS, this temporary moratorium will provide staff with the opportunity to study various options to regulate tobacco retailer businesses, including potentially requiring a use permit for such uses;

WHEREAS, Government Code section 65858 provides that to protect against any current and immediate threat to the public health, safety, or welfare, the City Council may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City plans to study;

WHEREAS, on April 16, 2024, the City Council adopted Urgency Ordinance No. 03-24 N.S. establishing a 45-day moratorium on the approval of granting any permit, license, and land use entitlement for any new tobacco retailer within the City to allow the City time to study viable solutions and municipal code amendments necessary to reasonably regulate tobacco retailers in the City as more fully described in that ordinance;

WHEREAS, the 45-day moratorium expired on May 31, 2024;

WHEREAS, after a showing and issuance of a report documenting the steps the City took to alleviate the conditions necessitating the adoption of Ordinance No. 03-24 N.S., on May 21, 2024, the City Council adopted Urgency Ordinance No. 05-24 N.S. extending the moratorium established by Urgency Ordinance No. 03-24 N.S. for ten months and fifteen days from the date of the 45-day moratorium’s expiration, May 31, 2024;

WHEREAS, the extension on the moratorium is set to expire on April 15, 2025;

WHEREAS, pursuant to Government Code Section 65858(d), the City has taken steps and continues to take steps to alleviate the conditions that necessitated the adoption of Ordinance No. 03-24 N.S. and the extension adopted by Ordinance No. 05-24 N.S. and has issued a report relative to the steps taken, which is attached and incorporated by reference;

WHEREAS, the City has determined that it is necessary to further extend the moratorium for a period of one year, until April 15, 2026, as authorized by Government Code Section 65858(a) in order to protect against the current and immediate threat to the public health, safety, and welfare and provide sufficient time for the City to continue its study of viable solutions and municipal code amendments necessary to reasonably regulate tobacco and hedge against the current threats to the public health, safety, and welfare;

WHEREAS, per Government Code Section 65858 such an extension of an urgency measure requires a four-fifths vote (6 votes) of the City Council for adoption and the extension shall be of no further force and effect than one year from the date of the expiration of the initial ten months and 15 days extension on the initial moratorium;

WHEREAS, this further extension on the moratorium will be set to expire on April 15, 2026;

WHEREAS, Government Code Section 65858(c) provides that the legislative body shall only extend any interim ordinance pursuant to this section if the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare;

WHEREAS, due notice of the hearing requesting this temporary moratorium has been provided as required by Government Code Section 65090; and,

WHEREAS, for reasons set forth above and in Ordinance No. 03-24 N.S. and Ordinance No. 05-24 N.S., which recitals are incorporated herein by reference, this ordinance is declared by the City Council to be necessary, as without this ordinance, the approval of additional licenses, permits, and land use entitlements for any new tobacco retailers or the like would result in a current, immediate, and direct threat to the health, safety, and welfare of the community, and the recitals above and in Ordinance No. 03-24 N.S. and Ordinance No. 05-24 N.S. taken together constitute the City Council's statements of the reasons constituting such necessity and urgency.

NOW, THEREFORE, the City Council of the City of Richmond does hereby ordain as follows:

SECTION 1: That the above recitals and recitals contained in Ordinance No. 03-24 N.S. and Ordinance No. 05-24 N.S. are true and correct and are adopted as the City Council's findings.

SECTION 2: Purpose and Authority.

In the interest of protecting the health, safety, and welfare of the residents in the City of Richmond, it is the purpose and intent of this ordinance to place a temporary moratorium on the issuance of any new permit, license, or other entitlement for any tobacco retailer in the City of Richmond. The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code section 65858 as an urgency measure prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying.

SECTION 3: Findings.

All provisions of Ordinance No. 03-24 N.S. shall remain in full force and effect during the extended term of the moratorium. In order to protect the public health, safety and welfare of the community and pursuant to the provisions of Government Code Section 65858, Section 7 of Ordinance No.03-24 N.S. is revised to reflect that the moratorium shall be extended for one year past the expiration of the original extension on the moratorium, which is set to expire on April 15, 2025 and as such this further extension shall be set to expire, and be of no further force and effect, on midnight, April 15, 2026.

Section 4: Environmental Review/California Environmental Quality Act (CEQA).

This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c)(2)(3); 15061(b)(3); 15064(d)(3); 15378(a).

Section 5: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6: Effective Date.

This ordinance, passed by at least a four-fifths vote of the City Council, is declared to be an urgency ordinance for preserving the public health, safety and welfare and shall take effect and be enforced immediately upon adoption.

I hereby certify that the foregoing Urgency Ordinance of the Council of the City of Richmond was duly passed and adopted at a meeting thereof held April 1, 2025, by the following vote:

AYES: Councilmembers Brown, Robinson, Wilson, Vice Mayor Zepeda, and Mayor Martinez.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmembers Bana and Jimenez.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

EDUARDO MARTINEZ

Mayor

Approved as to form:

DAVE ALESHIRE

City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of Urgency Ordinance No. 09-25 N.S., passed and adopted by the City Council of the City of Richmond at a regular meeting held on April 1, 2025.



Pamela Christian, Clerk of the City of Richmond