

ORDINANCE NO. 15-25 N.S.

**AN ORDINANCE AMENDING AND REVISING THE SCOPE OF THE CITY'S
TOBACCO MORATORIUM AS IMPOSED BY URGENCY ORDINANCE NO. 03-24
FOR THE PURPOSE OF CREATING A PATHWAY TO COMPLIANCE PROGRAM
FOR CERTAIN LEGACY RICHMOND BASED TOBACCO RETAILERS**

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; and

WHEREAS, on May 21, 2024, 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., 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 of May 31, 2024, thereby extending the moratorium expiration date to April 15, 2025; and

WHEREAS, on April 1, 2025, the City Council adopted Urgency Ordinance No. 09-25 N.S. extending the moratorium established by Urgency Ordinance No. 03-24 N.S. and Urgency Ordinance No. 05-24 N.S. for an additional 12 months, or one year from the expiration date imposed by Ordinance No. 05-24 N.S., thereby extending the moratorium expiration date to April 15, 2026; and

WHEREAS, for reasons set forth in justification of Ordinance No. 03-24 N.S., Ordinance No. 05-24 N.S., and Ordinance No. 09-25 N.S., which recitals are incorporated herein by reference, each of which declared by the City Council to be necessary, as without each 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, taken together, constitute the City Council's statements of the reasons constituting the necessity and urgency of each ordinance; and

WHEREAS, on April 1, 2025, during its review of Ordinance No. 09-25, City Council discussed the scope of the tobacco moratorium imposed by the above ordinances and directed staff to come back to Council with a list of affected tobacco retailers that at some time between 2018 and 2024 had a valid tobacco license and a valid City of Richmond business license from 2018 to present without a change in ownership, and further directed staff to propose an amendment to the scope of the moratorium for Council's consideration that excludes tobacco retailers meeting those qualifications to the extent those retailers have not otherwise been found to be conducting any illicit activities at their place of business.

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., Ordinance No. 05-24 N.S., and Ordinance 09-25 N.S. are true and correct and are adopted as the City Council's findings.

SECTION 2: Amended Scope of Tobacco Ordinance

Section 2 of Ordinance No. 03-24 N.S., which was subsequently extended by Ordinance No. 05-24 N.S. and Ordinance 09-25 N.S, is hereby amended to read as follows:

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, except for those tobacco retailers that meet all of the following criteria: (i) at some time between 2018 and 2024 held a valid City tobacco retailer license, (ii) have maintained a valid City of Richmond business license from 2018 to

present, (iii) have maintained all other licenses and permits required by state law related to tobacco retailing, and (iv) have not been found to have engaged in illicit activities, such as selling cannabis, untaxed tobacco, out-of-state tobacco, and/or other drugs. 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 6 of Ordinance No. 03-24 N.S., which was subsequently extended by Ordinance No. 05-24 N.S. and Ordinance 09-25 N.S, is hereby amended to read as follows:

Moratorium on New Permits, Licenses, and Land Use Entitlements.

A. During the term of this ordinance, any new tobacco retailer, except for those tobacco retailers who meet all criteria enumerated in (i)-(iv) provided within Section 2 of this Ordinance, shall be prohibited in all zoning districts and lands within the City of Richmond. Tobacco retailers meeting all criteria enumerated in (i)-(iv) within Section 2 of this ordinance shall, for the duration of this ordinance, be deemed to have met the condition elaborated within section 7.106.060(1) of the Richmond Municipal Code. No application for any permit, license, or land use entitlement shall be granted or approved for any new tobacco retailer in any zoning districts or lands within the City of Richmond unless an exception applies.

B. Notwithstanding any other provision of this ordinance, any person who lawfully holds an existing permit, license, and/or land use entitlement for an existing and lawfully operating smoke shop and/or tobacco retailer in the City of Richmond as of the effective date of this ordinance may continue to lawfully operate under that existing permit, license, and/or entitlement, and may apply for the renewal of any such existing permit, license, and/or entitlement, which renewal may be approved or denied by the City under the standards governing such permit, license, and/or entitlement under existing law. Nothing herein shall limit the authority of the City to revoke or suspend any existing license, permit, and/or entitlement as authorized under existing law.

SECTION 3: Findings.

All other provisions of Ordinance No. 03-24 N.S. shall remain in full force and effect during the extended term of the City's moratorium. In no event shall any entitlements or exceptions provided by this Ordinance extend beyond the City's moratorium on tobacco retailers under Ordinance No. 03-24 N.S, as extended through April 15, 2026, or unless rescinded upon an earlier date.

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

This ordinance 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 shall become effective thirty (30) days after its final passage and adoption.

First introduced at a regular meeting of the City Council of the City of Richmond held on June 24, 2025, and finally passed and adopted at a regular meeting held on July 1, 2025, by the following vote:

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| AYES: | Councilmembers Bana, Brown, Jimenez, Robinson, Wilson, Vice Mayor Zepeda, and Mayor Martinez. |
| NOES: | None. |
| ABSTENTIONS: | None. |
| ABSENT: | None. |

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 **Ordinance No. 15-25 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on July 1, 2025.



 Pamela Christian, Clerk of the City of Richmond