

ORDINANCE NO. 31-09 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
RICHMOND AMENDING CHAPTER 11.04 OF THE RICHMOND
MUNICIPAL CODE RELATING TO CONSUMPTION OR
POSSESSION OF ALCOHOL IN PUBLIC**

The City Council of the City of Richmond do ordain as follows:

SECTION 1: Existing sections 11.04.020 through 11.04.040 of the Richmond Municipal Code are hereby repealed and replaced with the following Sections 11.04.020 through 11.04.040:

Section 11.04.020. Possession and Consumption of Alcohol Prohibited in Certain Places.

Except as provided in section 11.04.040, it shall be unlawful and a misdemeanor for any person to consume, drink, exhibit or possess an open container of any alcoholic or intoxicating beverage in any quantity in the following public places, places open to the public and places open to public view:

- (1) On any public street, sidewalk, alley, way, parkway, public parking lot, public park or recreation area within the city.
- (2) On the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee; and
- (3) On other private property open to the public, including but not limited to parking lots and shopping centers, where the sale of alcoholic beverages has not been licensed;
- (4) On a private drive, stairway, doorway, or other private property open to public view without the express permission of the owner, his or her agent, or the person in lawful possession thereof.

Section 11.04.030. Posting of Premises Required by Business Owner

Each owner/operator of a retail package off-sale alcoholic beverage business premises within the City and each owner of a parking lot immediately adjacent to such business premises shall respectively post the business premises, the parking lot or the sidewalk with a sign approved by the Chief of Police or by the designee of the Chief of Police. The sign shall indicate that possession of an open container or consumption of alcohol within the lot is a violation of Section 11.04.020 of this Code.

Section 11.04.040. Exemptions

The provisions of section 11-04.020 shall not apply to the consumption, drinking, exhibition, or possession of an open container of alcoholic or intoxicating beverages in a public park or recreation area under one or more of the following conditions:

- (1) Where the sale of alcoholic beverages has been approved or licensed for the public park or recreation area by the state Department of Alcoholic Beverage Control;

(2) Where, at least 24 hours before using the park or recreation area, a written permit to possess alcoholic or intoxicating beverages in a specific public park or recreation area has been obtained from the city and the fee established by the Resolution Establishing Fees and Charges for Various Municipal Services of the city for said permit has been paid;

(3) The use or activity in the park or recreation area is sponsored or authorized by the city.

Section 11.04.050 is hereby deleted in its entirety.

SECTION 2: CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b) (3).

SECTION 3: Severability

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

SECTION 4: Effective Date

This Ordinance becomes effective 30 days after its final passage and adoption.

First read at a regular meeting of the City Council of the City of Richmond held on **September 15, 2009**, and finally passed and adopted at a regular meeting thereof held **October 6, 2009**, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, and Mayor

McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: Vice Mayor Lopez

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of Ordinance No. 31-09, finally passed and adopted by the Council of the City of Richmond at a meeting held on October 6, 2009.