

**ORDINANCE NO. 05-18 N.S.**

**AN URGENCY ORDINANCE, PURSUANT TO GOVERNMENT CODE SECTION 65858, EXTENDING UNTIL FEBRUARY 7, 2019, A TEMPORARY MORATORIUM ON CERTAIN USES IN GENERAL PLAN 2030 CHANGE AREA 12 (NORTHSHORE), WHICH WAS ADOPTED BY THE CITY COUNCIL ON FEBRUARY 7, 2017 (ORDINANCE NO. 4-17 N.S.) AND EXTENDED BY THE CITY COUNCIL ON MARCH 21, 2017 (ORDINANCE NO. 5-17 N.S.)**

---

**WHEREAS**, on February 7, 2017, the City Council adopted Urgency Ordinance No. 4-17 N.S. establishing a 45-day moratorium on the approval of new land uses in General Plan 2030 Change Area 12 (Northshore) that may conflict with the contemplated General Plan Amendment for this area while the City is considering a General Plan Amendment for this area (which means any new uses other than those that can be classified as Open Space, Parks and Recreation, Agriculture, or Public, Cultural and Institutional); and

**WHEREAS**, the City Council extended Ordinance No. 4-17 N.S. on March 21, 2017 (Ordinance No. 5-17 N.S.); and

**WHEREAS**, the extended moratorium will expire on February 7, 2018; and

**WHEREAS**, Government Code Section 65858 allows a city, including a charter city, to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public health, safety, and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

**WHEREAS**, such an extension of an urgency measure requires a four-fifths vote (6 votes) of the City Council for adoption and it shall be of no further force and effect ten months and fifteen days from the date of the extension, and may be subsequently extended for one year; and

**WHEREAS**, pursuant to Government Code Section 65350 et seq. and Richmond Municipal Code Article 15.04.813, the General Plan amendment process must include: preparation of a report and recommendation to the Planning Commission from the Planning Director; a recommendation from the Planning Commission with certain recommended findings; and a noticed public hearing with approval, modification, or denial by the City Council; and

**WHEREAS**, the City of Richmond Planning and Building Services Department has diligently worked to develop a schedule for the General Plan amendment process; has executed a community engagement plan to receive input from property owners and stakeholders, and residents on the contemplated General Plan amendments; has assembled a technical and legal team that will be needed to facilitate this process; has retained a consultant to facilitate this process; has conducted further research on the history of the real property in this area and reviewed other City plans or documents that may need to be amended to implement the contemplated General Plan amendment; and has contacted the Native American Heritage Commission for a list of Tribes to consult with pursuant to state consultation requirements; and

**WHEREAS**, the Planning Department and its consultant have prepared an "Evaluation and Emerging Concepts Report for Change Area 12, and presented the results of the Council-directed study of the proposed General Plan Amendment to the Planning Commission, and held a study session on the same before the City Council on January 30, 2018; and

**WHEREAS**, the City needs additional time to receive City Council direction and study which particular land uses are appropriate for which specific portions of Change Area 12 and amend the General Plan; and

**WHEREAS**, since the adoption of the City's General Plan 2030, new information on shoreline planning has been released that requires this moratorium extension to preserve the public health, safety and welfare that the City must analyze as part of its General Plan amendment process to protect the public health safety and welfare. Specifically, the Federal Emergency Management Agency (FEMA) has prepared and issued new Flood Insurance Rate Map (FIRM) (dated September 30, 2015) for many shoreline areas of the City, including Change Area 12 (Northshore). In addition, the Bay Conservation Development Commission also released its Adapting to Rising Tides Contra Costa County Sea Level Rise Vulnerability Assessment report on February 2016, which includes a broad assessment of Contra Costa County's, including City of Richmond's, shoreline exposure to flooding or inundation from sea level rise scenarios of 0 to 66 inches and extreme tide events from the 1-year to the 500-year extreme tide event; and

**WHEREAS**, the City adopted the Richmond Bay Specific Plan (RBSP) to accommodate growth along Richmond's southern shoreline, which includes approximately 5.4 million square feet of new research and development, commercial, and retail space and housing near transit and within the South Richmond Priority Development Area. With adoption of the RBSP, the City needs to assess changes to other shoreline Change Areas throughout the City in order to direct anticipated growth to the Richmond Bay Specific Plan area, where the City is further in planning for utilities and other infrastructure to accommodate shoreline growth; and

**WHEREAS**, the City also needs time to coordinate in a reasonable way with Federal and State agencies that regulate coastal development, including public infrastructure and public obligations for shoreline access and protection, in order to preserve public health, safety and welfare; and

**WHEREAS**, Government Code Section 65858(c) provides that the legislative body shall not extend any interim ordinance pursuant to this section unless 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 subdivisions, 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; and

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

**WHEREAS**, for reasons set forth above and in Ordinance No. 4-17 N.S. and Ordinance No. 5-17 N.S., which recitals are incorporated herein by reference, this ordinance is declared by the City Council to be necessary for preserving the public peace, health, safety, and welfare to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above and in Ordinance No. 4-17 N.S. and Ordinance No. 5-17 N.S. taken together constitute the City Council's statements of the reasons constituting such necessity and urgency; and

**WHEREAS**, for reasons set forth above and in Ordinance No. 4-17 N.S., and Ordinance No. 5-17 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 subdivisions, use permits, variances, building permits, or the like would result in a current and immediate and direct threat to the health, safety, and welfare of the community, and the recitals above and in Ordinance No. 4-17 N.S. and Ordinance No. 5-17 N.S. taken together constitute the City Council's statements of the reasons constituting such necessity and urgency; and

**WHEREAS**, pursuant to Government Code Section 65858(d), the City has issued a report relative to the steps taken to alleviate the conditions that necessitated the adoption of Ordinance No. 4-17 N.S. and Ordinance No. 5-17 N.S., and the City has taken all steps described in that report, which is attached and incorporated by reference; and

**WHEREAS**, the adoption of this urgency ordinance will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects, beyond those effects analyzed in the Final Environmental Impact Report (EIR) for the new General Plan 2030, which was certified by the City Council on April 24, 2012 (CC Resolution No. 51-12). This ordinance is within the scope of the project covered by the General Plan Final Environmental Impact Report including the Findings of Fact regarding Impacts and Mitigation Measures and CEQA Guidelines Section 15168(c)(2). In addition, this ordinance is covered by the general rule that CEQA applies only to the projects which have the potential for causing a significant effect on the environment. It has been determined with certainty that there is no possibility that this urgency ordinance will have a significant effect on the environment; and, therefore, are not subject to CEQA (CEQA Guidelines Section 15061(b)(3)); and

**WHEREAS**, by the Agenda Report, testimony, and documentary evidence presented at the February 6, 2018 City Council meeting, the City Council has been provided with additional information upon which the findings and actions set forth in this resolution are based.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND** does ordain as follows:

**SECTION 1.** The City Council finds and determines the recitals set forth in this ordinance and in Ordinance No. 4-17 N.S. and in Ordinance No. 5-17 N.S. to be true and correct and hereby makes them a part of this ordinance.

**SECTION 2.** The City Council finds and determines the adoption of this ordinance extension complies with CEQA. The adoption of this urgency ordinance extension will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects, beyond those effects analyzed in the Final Environmental Impact Report (EIR) for the new General Plan 2030, which was certified by the City Council on April 24, 2012 (CC Resolution No. 51-12). This ordinance is within the scope of the project covered by the General Plan Final Environmental Impact Report including the Findings of Fact regarding Impacts and Mitigation Measures and CEQA Guidelines Section 15168(c)(2). In addition, this ordinance is covered by the general rule that CEQA applies only to the projects which have the potential for causing a significant effect on the environment. It has been determined with certainty that there is no possibility that this urgency ordinance will have a significant effect on the environment; and, therefore, are not subject to CEQA (CEQA Guidelines Section 15061(b)(3)).

**SECTION 3.** All provisions of Ordinance No. 5-17 N.S. shall remain in full force and effect during the extended term of the moratorium except as follows.

Section 6 of Ordinance No. 5-17 N.S. is revised to reflect that the extended moratorium shall expire, and be no further force and effect, on midnight, **February 7, 2019**, unless a permanent General Plan Amendment for Change Area 12 is adopted earlier, in which case, the moratorium shall expire upon the effective date of the General Plan Amendment.

Section 7 is hereby repealed. The repeal of Section 7 is intended to and shall be retroactive to the initial enactment of Ordinance No. 4-17 N.S. on February 7, 2017.

**SECTION 4. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

**SECTION 5. Effective Date.** This Ordinance shall take effect and be in full force immediately upon its passage.

-----

I certify that the foregoing Ordinance was passed and adopted by the City Council of the City of Richmond at a regular meeting thereof held February 6, 2018, by the following vote:

YES: Councilmembers Beckles, Choi, Martinez, Myrick,  
Recinos, Vice Mayor Willis, and Mayor Butt.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

**PAMELA CHRISTIAN**  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:  
**TOM BUTT**  
Mayor

Approved as to form:  
**BRUCE GOODMILLER**  
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. 05-18 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 6, 2018.

  
\_\_\_\_\_  
Pamela Christian, City Clerk of the City of Richmond

**10-DAY REPORT ON THE CITY OF RICHMOND'S  
URGENCY MORATORIUM ORDINANCE EXTENSION PROHIBITING  
CERTAIN NEW LAND USES IN GENERAL PLAN CHANGE AREA 12  
(NORTHSHORE) AS REQUIRED BY GOVERNMENT CODE SECTION  
65858(d)**

BACKGROUND:

On February 7, 2017, pursuant to *Government Code* Sections 65858 and 36937, the City Council adopted Ordinance No. 14-17, a 45-day urgency moratorium ordinance. Ordinance No. 14-17 was adopted in an effort to protect the public health, safety, and welfare by prohibiting the establishment of new uses that may conflict with the contemplated General Plan Amendments in General Plan 2030 Change Area 12 (Northshore). Subsequently, the Council adopted Ordinance No. 5-17 extending the moratorium for 10 months and 15 days. Under *Government Code* Section 65858(d), at least 10 days prior to the expiration of an extension, the City is to issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the moratorium.

MEASURES TAKEN TO ALLEVIATE THE CONDITIONS THAT LED TO THE  
ADOPTION OF THE URGENCY ORDINANCE

1. Since February 7, City staff has been developing and implementing a community engagement plan to receive the input from property owners, stakeholders, and residents on the contemplated General Plan amendments. This effort has included compiling a list of stakeholders to engage in the community input process, meeting with stakeholders, and holding a community meeting, and Planning Commission study session.
2. The City has assembled a technical and legal team that will be needed to study and implement the contemplated General Plan amendment. This team has produced a report to the Planning Commission summarizing the results of their evaluation and presenting recommendations for the Commission's consideration.
3. City staff has commenced the process to amend the General Plan, incorporating changes to the land use map for General Plan Change Area 12 based on Ordinance No. 14-17. A report was prepared incorporating community input and presenting options for amendments to the General Plan land use designations for this area that would respond to City Council direction. These were presented to the Planning Commission and their direction on a preferred option was provided after hearing public input. Staff plans to present these options and the Planning Commission's recommendation to the City Council on January 30, 2018.
4. City staff has also began reviewing other City plan or documents that may be need to be amended to implement the contemplated General Plan Amendments, such as the Zoning Ordinance and Zoning Map. Specific General Plan policies that would be recommended to implement a preferred amendment to the General Plan Land Use Diagram were included in the report to the Planning Commission, and Planning Commission comments on these policies are reflected in the Agenda Report to the City Council for the January 30, 2018 meeting.
5. City staff contacted the Native American Heritage Commission for a list of tribes to consult with pursuant to the requirements of SB18 and AB52. Letters were mailed to the suggested list of tribes initiating consultation.
6. Staff maintains a project webpage and listserv to keep stakeholders informed about progress made on the project. See [www.ci.richmond.ca.us/northshoregpa](http://www.ci.richmond.ca.us/northshoregpa)