

ORDINANCE NO. 27-18 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
ADOPTING AMENDMENTS TO CHAPTER 15.04 OF THE RICHMOND
MUNICIPAL CODE RELATED TO SCHOOLS**

WHEREAS, pursuant to Article XI, section 7 of the California Constitution and sections 36931 et seq. of the California Government Code, the City may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on November 15, 2016, the City adopted a comprehensive Zoning Update (Ordinance No. 16-16), which allows schools in the following zoning districts with conditional or administrative use permits: RH, RL1; RL2, RM1, RM2, CM-1, CM-2, CM-3, CM-4, CM-5, CR, IB, and PCI; and

WHEREAS, while the City recently adopted standards for schools in its zoning update, certain locations in the City have recently experienced adverse impacts relating to schools, namely issues relating to parking, traffic, pedestrian safety, and vehicle circulation that needed further study; and

WHEREAS, traffic, safety, and parking concerns have plagued various commercial and mixed-use areas of the City in which schools are locating, as the high concentration of school uses in certain areas has led to long lines of cars accessing the school sites in the mornings and afternoons, which leads to difficulty for public safety vehicles and business and employees in navigating the area during drop-off and pick-up time, as well as potential danger to pedestrians in these high-traffic areas; and

WHEREAS, on December 19, 2017, in response to concerns raised over school siting in mixed-use and commercial districts, the Council adopted a 45-day moratorium on the approval of new and expansion of existing schools in the CM-1, CM-2, CM-3, CM-4, CM-5, and CR zoning districts; and

WHEREAS, on January 30, 2018, the Council extended the moratorium to December 17, 2018; and

WHEREAS, on November 1, 2018, the Planning Commission held a duly and properly noticed public hearing to consider a recommendation to the City Council on the proposed amendments to Chapter 15.04 related to schools, incorporated herein by reference; and

WHEREAS, the Planning Commission considered the agenda report and all of the information and data contained therein, all public comments, and the amendments and the applicable provisions of the Richmond Municipal Code (“the Record”) and voted to recommend that the Council adopt the proposed amendments with minor edits; and

WHEREAS, on November 13, 2018, the Council held a duly and properly noticed public hearing to consider adopting amendments to Chapter 15.04 related to schools, incorporated herein by reference; and

WHEREAS, the City Council considered the agenda report, all public comments, and the amendments, as set forth in Exhibit A of this Ordinance and the applicable provisions of the Richmond Municipal Code (“the Record”); and

WHEREAS, the City Council finds and determines:

1) Pursuant to California Environmental Quality Act (“CEQA”) Guidelines § 15378 and California Public Resources Code § 21065, the amendments are not a “project” because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment; and

2) Even if the amendments to Section 15.04.610.360, Schools; Table 15.04.202.020, Land Use Regulations – CM Mixed Use Districts; Table 15.04.203.020, Land Use Regulations – Commercial Districts; and Table 15.04.204.020, Land Use Regulations – Industrial Districts qualified as a “project” subject to CEQA, and pursuant to CEQA Guidelines § 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. The proposed ordinance merely amends the Richmond Municipal Code to regulate the future establishment and expansion of existing schools and does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new school or change to an existing school would be subject to additional environmental review on a case-by-case basis Pursuant to California Environmental Quality Act (“CEQA”) Guidelines § 15378 and California Public Resources Code § 21065, the proposed ordinance is not a “project” because its adoption is not an activity that has the potential for a direct physical change or reasonably foreseeable indirect physical change in the environment. Accordingly, the proposed ordinance is not subject to CEQA.

3) The facts set forth in the recitals in this Resolution are true and correct and incorporated by reference. The recitals constitute findings in this matter and, together with the agenda report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the actions taken in this Resolution; and

4) The amendments to Section 15.04.610.360, Schools; Table 15.04.202.020, Land Use Regulations – CM Mixed Use Districts; Table 15.04.203.020, Land Use Regulations – Commercial Districts; and Table 15.04.204.020, Land Use Regulations – Industrial Districts are consistent with the General Plan, Richmond Municipal Code, and applicable federal and state law; and

5) The amendments to Section 15.04.610.360, Schools; Table 15.04.202.020, Land Use Regulations – CM Mixed Use Districts; Table 15.04.203.020, Land Use Regulations – Commercial Districts; and Table 15.04.204.020, Land Use Regulations – Industrial Districts will not be detrimental to the public interest, health, safety, convenience or welfare.

SECTION I. Municipal Code Amendments.

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

Amendments to Section 15.04.610.360, Schools, Table 15.04.202.020, Land Use Regulations – CM Mixed Use Districts, Table 15.04.203.020, Land Use Regulations – Commercial Districts, and Table 15.04.204.020, Land Use Regulations – Industrial Districts of the City of Richmond Municipal Code are hereby amended as shown in Exhibit A (~~strikeout text indicates deletion~~; underline text indicates insertion), attached hereto and incorporated herein by reference.

SECTION II. Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

SECTION III. Effective Date.

All applications filed after or pending upon the date of final passage and adoption of this Ordinance shall be subject to this Ordinance. This Ordinance becomes 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 November 13, 2018 and finally passed and adopted at a regular meeting held November 20, 2018, by the following vote:

AYES: Councilmembers Choi, Martinez, Myrick, Recinos, Vice Mayor Willis, and Mayor Butt.
NOES: None.
ABSTENTIONS: None.
ABSENT: Councilmember Beckles.

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. 27-18 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 20, 2018.



Pamela Christian, City Clerk of the City of Richmond

Attachment: Exhibit A – Zoning Ordinance Amendments Related to Schools

Please note: The amendments shown in redline strikeout text are the amendments proposed related to schools only. These pages may have additional amendments being proposed as part of the Zoning Clean up changes. These school-related amendments are in addition to those amendments proposed in the Zoning Clean Up.

| TABLE 15.04.202.020: LAND USE REGULATIONS – CM MIXED-USE DISTRICTS | | | | | | | |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|--------------|---|
| Uses | CM-1 | CM-2 | CM-3 | CM-4 | CM-5 | LW | Additional Regulations |
| INSTITUTIONAL AND COMMUNITY FACILITIES | | | | | | | |
| College and Trade School | C | x | C | x | L15 | x | |
| Community Assembly | L2 | x | C | C | C | x | See § <u>15.04.610.140</u> Community Assembly |
| Community Garden | x | P | C | x | C | P | See § <u>15.04.610.290</u> Nurseries and Garden Centers |
| Cultural Facility | P | C | P | P | P | x | |
| Day Care Centers | A | A | A | A | L14 | x | See § <u>15.04.610.190</u> Family Day Care, Large |
| Emergency Shelter | P | C | L11 | x | L13 | x | See § <u>15.04.610.180</u> Emergency Shelters |
| Government Buildings | P | P | P | P | P | C | |
| Hospitals and Clinics | C | C | C | C | C | x | See § <u>15.04.610.240</u> Hospitals and Clinics |
| <i>Hospital</i> | C | x | C | C | C | x | |
| <i>Clinic</i> | L2 | L2 | L2 | L2 | L2 | L2 | |
| <i>Skilled Nursing Facility</i> | C | x | C | C | C | x | |
| Park and Recreation Facility | L1 | L1 | C | C | C | x | |
| Public Safety Facility | C | C | C | P | P | x | |
| Schools ¹ | L12x | L12x | L12x | L12x | L12x | x | See § <u>15.04.610.370</u> Schools |
| Social Service Center | x | x | L2 | L2 | L1 | x | See § <u>15.04.610.160</u> Domestic Violence Shelters |

~~L12 An administrative use permit is required if a new school will be located in an existing building and any new space added to the building will not exceed 20 percent of existing floor area, excluding space in portable classrooms. A conditional use permit is required for construction of new schools and for additions to existing buildings in which new schools will be located that exceed 20 percent of existing floor area. No schools are allowed within the Industrial Buffer Zone shown on the Zoning Map.~~

¹ Schools with conditional use permits that are nonconforming can seek modifications to existing conditions of approval pursuant to Section 15.04.606.040(C), Expansion of Nonconforming uses.

Please note: The amendments shown in redline strikeout text are the amendments proposed related to schools only. These pages may have additional amendments being proposed as part of the Zoning Clean up changes. These school-related amendments are in addition to those amendments proposed in the Zoning Clean Up.

| TABLE 15.04.203.020: LAND USE REGULATIONS – COMMERCIAL DISTRICTS | | | | |
|---|------------------------------|-----------------|----|---|
| Uses | CG | CR | CC | Additional Regulations |
| INSTITUTIONAL AND COMMUNITY FACILITIES | | | | |
| College and Trade School | x | C | x | |
| Community Assembly | x | C | C | See § <u>15.04.610.140</u> Community Assembly |
| Community Garden | P | x | P | See § <u>15.04.610.290</u> Nurseries and Garden Centers |
| Cultural Facility | x | P | C | |
| Day Care Centers | L7 | A | x | See § <u>15.04.610.190</u> Family Day Care, Large |
| Emergency Shelter | L8 | L8 | x | See § <u>15.04.610.180</u> Emergency Shelters |
| Government Buildings | P | P | P | |
| Hospitals and Clinics | See subclassifications below | | | See § <u>15.04.610.240</u> Hospitals and Clinics |
| <i>Clinic</i> | LI | LI | x | |
| Park and Recreation Facility | x | C | C | |
| Public Safety Facility | P | P | P | |
| Schools ¹ | x | L10x | x | See § <u>15.04.610.370</u> Schools |
| Social Service Center | P | P | x | See § <u>15.04.610.160</u> Domestic Violence Shelters |

~~L10 An administrative use permit is required if a new school will be located in an existing building and any new space added to the building will not exceed 20 percent of existing floor area, excluding space in portable classrooms. A conditional use permit is required for construction of new schools and for additions to existing buildings in which new schools will be located that exceed 20 percent of existing floor area.~~

¹ Schools with conditional use permits that are nonconforming can seek modifications to existing conditions of approval pursuant to Section 15.04.606.040(C), Expansion of Nonconforming uses.

Please note: The amendments shown in redline strikeout text are the amendments proposed related to schools only. These pages may have additional amendments being proposed as part of the Zoning Clean up changes. These school-related amendments are in addition to those amendments proposed in the Zoning Clean Up.

| TABLE 15.04.204.020: LAND USE REGULATIONS – INDUSTRIAL DISTRICTS | | | | | | |
|---|------------|---------------|-----------|-----------|-----------|---|
| <i>Uses</i> | <i>ILL</i> | <i>IB</i> | <i>IL</i> | <i>IG</i> | <i>IW</i> | <i>Additional Regulations</i> |
| INSTITUTIONAL AND COMMUNITY FACILITIES | | | | | | |
| College and Trade School | C | C | L9 | x | x | |
| Community Garden | C | C | C | x | x | See § <u>15.04.610.290</u> Nurseries and Garden Centers |
| Government Buildings | P | P | P | P | P | |
| Public Safety Facility | x | x | x | P | P | |
| Schools ¹ | x | Cx | x | x | x | See § <u>15.04.610.370</u> Schools |

¹ Schools with conditional use permits that are nonconforming can seek modifications to existing conditions of approval pursuant to Section 15.04.606.040(C), Expansion of Nonconforming uses.

Please note: The amendments shown in redline strikeout text are the amendments proposed related to schools only. These pages may have additional amendments being proposed as part of the Zoning Clean up changes. These school-related amendments are in addition to those amendments proposed in the Zoning Clean Up.

Add new letter G under 15.04.610.370 Schools

G. Design Standards

1. Schools shall be designed at a neighborhood scale, and new or replacement elementary schools, kindergarten through grade 5 or 6, generally shall not exceed 500 students in size, unless the Planning Commission determines that a larger facility is warranted at a specific location.
2. The design of structures shall incorporate setbacks, recesses, projections, upper-story setbacks, and similar architectural measures to help diminish visible building bulk as seen from adjoining public streets.
3. Larger structures with high levels of activities and parking areas shall be located away from surrounding residential development that is smaller in scale or less intense.
4. School campuses, excluding outdoor recreational areas, shall be subject to the minimum lighting standards set in Section 15.04.604.050 that apply to multi-family development. Entries shall be lighted to ensure the safety of persons and the security of buildings. Outdoor lighting that is not required for security shall be turned off when a building or outdoor recreational area is not in use.