

ORDINANCE NO. 11-11 N.S.

AN URGENCY ORDINANCE, PURSUANT TO GOVERNMENT CODE SECTION 65858, EXTENDING A TEMPORARY MORATORIUM ON THE ACCEPTANCE, PROCESSING, APPROVAL AND ISSUANCE OF APPLICATIONS AND PERMITS TO CONSTRUCT OR PLACE NEW WIRELESS COMMUNICATIONS FACILITIES IN THE CITY OF RICHMOND

WHEREAS, Government Code Section 65858 allows a city, including a charter city, without following the procedures otherwise required prior to adoption of a zoning ordinance, to adopt, as an urgency measure, an interim ordinance prohibiting any uses which may be in conflict with any contemplated general plan, specific plan, or zoning ordinance amendment proposal which the legislative body, planning commission, or planning department is intending to study within a reasonable time; and

WHEREAS, the City of Richmond recently revised and updated its ordinance pertaining to the siting and appearance of wireless communications facilities (“Wireless Ordinance”); and

WHEREAS, in administering its revised Wireless Ordinance the City of Richmond has discovered that there remain certain aspects of aesthetics and other aspects of the public safety and welfare that are not adequately protected in the revised Wireless Ordinance; and

WHEREAS, on February 1, 2011, the City Council adopted Urgency Ordinance No. 06-11 N.S., establishing a 45-day moratorium on the acceptance, processing, approval and issuance of applications and permits to construct or place new wireless communications facilities in all zoning districts within the City in order to prepare revisions necessary to protect the public safety and welfare; and

WHEREAS, upon adoption of Urgency Ordinance No. 06-11 N.S., the City of Richmond undertook an immediate review of its Wireless Ordinance in order to determine the revisions necessary to protect the public safety and welfare; and

WHEREAS, Government Code Section 65858(a) provides that after notice pursuant to Government Code Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year; and

WHEREAS, due notice of the hearing requesting this first extension of Urgency Ordinance No. 06-11 N.S. has been given as required by law; and

WHEREAS, for reasons set forth above and in Urgency Ordinance No. 06-11 N.S., this ordinance is declared by the City Council to be necessary for preserving the public peace, health, safety, and to avoid a current, immediate and direct threat to the health, safety, or welfare of the community, and the recitals above taken together constitute the City Council’s statements of the reasons constituting such necessity and urgency; and

WHEREAS, adoption of this ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15183; and

WHEREAS, by the Agenda Report the City Council has been provided with additional information upon which the findings and actions set forth in this ordinance 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 Urgency Ordinance No. 06-11 N.S. are true and correct and hereby make them part of this ordinance.

SECTION 2. All provisions of Urgency Ordinance No. 06-11 N.S., except for Sections 3 and 4, shall remain in full force and effect during the extended term of the moratorium. Sections 3 and 4 of Urgency Ordinance No. 06-11 N.S. are revised to reflect that the extended

moratorium shall expire, and be of no further force and effect, on midnight, **May 14, 2011**, unless a permanent ordinance establishing new regulations governing wireless communication facilities covered by this moratorium is adopted earlier, or, this ordinance is extended, in which case, the moratorium shall expire upon the effective date of the permanent regulations or termination of any extension.

SECTION 3. In accordance with Government Code Section 65858, this ordinance is effective immediately as an interim urgency measure and shall be in full force and effect until the earlier of (1) the effective date of legislation addressing land use criteria for wireless communication facilities, or (2) **May 14, 2011**. This moratorium may be extended by the City Council in accordance with the provisions of California Government Code Section 65858.

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.

I certify that the foregoing Ordinance was introduced and adopted by the City Council of the City of Richmond at a regular meeting thereof held March 15, 2011 by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.
NOES: None.
ABSTENTIONS: None.
ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
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.11-11 N.S., finally passed and adopted by the City Council of the City of Richmond at a joint meeting held on March 15, 2011.