

**ORDINANCE NO. ## N.S.**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF RICHMOND AS APPROVED BY THE CITY'S QUALIFIED ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 6, 2018 TO ESTABLISH A SPECIAL PARCEL TAX ON VACANT PROPERTY**

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

**SECTION 1.**            **Title.**

This Ordinance may be referred to as the "Special Parcel Tax on Vacant Property."

**SECTION 2.**            **Purpose.**

The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to support and fund services for homeless people, affordable housing, blight abatement and the related programs, described below. Because the proceeds of the parcel tax will be deposited into a special fund restricted for the services and programs specified in this Ordinance, the tax is a special tax.

**SECTION 3.**            **Code Amendment.**

A new Chapter 13.58 of Article XIII is hereby added to the Richmond Municipal Code to read as follows:

**Chapter 13.58 - SPECIAL PARCEL TAX ON VACANT PROPERTY**

Sections:

**13.58.010 – Definitions**

"Active use" means the occupancy of a legal residential unit, the performance of a business function or operation, or the presence of a functional structure, agricultural site, or landscaping and parking which serves an adjacent structure.

"City" means the City of Richmond, California, a municipal corporation and charter city.

"City Council" means the Council of the City of Richmond.

"Commission" means the Richmond Housing Advisory Commission.

"County" means the County of Contra Costa, California.

“Developed parcel” means all parcels, regardless of zoning or other land use designation, upon which permanent improvements have been constructed or placed.

“Finance Director” means the Director of Finance of the City of Richmond.

“Owner” means the owner or owners of the real property located within the City of Richmond.

“Parcel” means a legal parcel of real property in the City of Richmond as shown on the most current official assessment roll of the Contra Costa County Assessor.

“Residential unit” means a building or structure, or portion thereof, designed for or occupied exclusively by one household, including unrelated persons who live together and maintain a common household.

“Tax” means the special tax authorized by this Ordinance.

“Undeveloped parcel” means all parcels, regardless of zoning or other land use designation, upon which no permanent improvements have been constructed or placed.

“Vacant” is as defined by section 13.58.020 of this chapter.

### **13.58.020 - Determination of Vacancy**

- A. For the purposes of this ordinance, a parcel of real property shall be deemed “vacant” and subject to the tax imposed by Section 13.58.030 below if the parcel is not otherwise wholly exempt from ad valorem tax by state law, and is any of the following:
1. A developed parcel of land that is in active use less than 50 days during a calendar year.
  2. An undeveloped parcel of land that is in active use less than 50 days during a calendar year.
  3. A condominium, duplex, or townhouse residential unit under separate ownership that is in active use less than 50 days during a calendar year.
    - a. For parcels with multiple units, whether residential or non-residential, the parcel is not vacant if any unit on it is not vacant. A condominium, duplex, or townhouse unit under separate ownership is treated as a separate parcel for the purposes of this Chapter, and if it is vacant, is subject to the tax regardless of the status of any other unit on the same lot or that is part of the same development.
  4. A parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit), or are a legal nonconforming

use, and all of the ground floor space that could be lawfully occupied by commercial activities is in active use less than fifty 50 days in a calendar year.

- a. Parcels determined to be vacant under this section shall be subject to the tax regardless of whether any other portion of the structures on the parcel are occupied.
- B. The City Council shall establish, by ordinance, a method for determining and identifying the use and vacancy status of each parcel of real property in the City.

### **13.58.030 - Imposition of Special Parcel Tax on Vacant Property**

- A. A special tax in the amounts set forth below is hereby imposed on every vacant parcel of real property within the City, other than those exempted in Section 13.58.030 F. of this chapter.
- B. Unless the City Council selects another method for collection of the tax, the County shall levy and collect the tax on each parcel of real property in the City for which the Owner receives a separate ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by the County except as otherwise set forth in this Ordinance.
- C. If the City Council selects collection of the tax by the County, the tax shall be imposed on the ad valorem property tax bill for the fiscal year that begins July 1 following the end of the calendar year in which the parcel was vacant. The special tax shall first be imposed no sooner than the ad valorem property tax bill for fiscal year 2020-2021 for parcels that were vacant in the previous calendar year.
- D. Tax Rates.
1. The maximum tax rates for each vacant parcel, as determined by Section 13.58.020, shall be as set forth in Section 13.58.030 D. 2 of this chapter. The City Council may lower, but not increase, the rates, and may by Ordinance adopt further categories of exemption. The City shall be responsible for assigning a tax rate for each parcel.
  2. The tax imposed by this chapter shall be at the rate of \$3,000 annually per vacant developed parcel; \$6,000 annually per vacant undeveloped parcel; \$3,000 annually per vacant residential unit for condominiums, duplexes, or townhouse units under separate ownership; and \$3,000 annually per parcel for parcels with ground floor commercial activity allowed but vacant.
- E. Adjustment in Tax Rate.  
The City Council may, by resolution, establish an annual tax rate less than the maximum amount then authorized. Following any such decrease in the annual tax rate, the City Council may, by resolution, increase the annual tax rate to the maximum rate then

permitted, or to any other amount less than the maximum rate then permitted, without obtaining voter approval.

F. Exemptions.

1. The following may be exempt from the tax imposed by this Ordinance:
  - a. An Owner who qualifies as very low-income, as the term “very low income” is defined by the United States Department of Housing and Urban Development.
  - b. An Owner who can demonstrate that exceptional specific circumstances prevent the use or development of the property. By way of example only and without limiting the generality of the foregoing, exceptional specific circumstances that prevent the use or development of property include property damage by a recent natural disaster, an undeveloped parcel adjoining a developed residential parcel and used by the occupants as part of the yard, and property with physical conditions that prevent development. The details of this exemption shall be further defined by separate ordinance of the City Council.
  - c. An Owner of a property that is under active construction. To qualify for this exemption, an Owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active.
  - d. An Owner of property for which an active building permit application is being processed by the City.
  - e. An Owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An Owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.
  - f. An Owner of property for which at least 60 percent of the accessible dry land is actively used for Community Garden(s), Outdoor Agriculture, or Urban Agriculture as defined in section 15.04.104.020 and developed in accordance with the applicable standards set forth in Article XV of this Code.
2. The City Council shall, by ordinance, authorize the application of the exemptions listed in this Section, establish such other exemptions to the tax imposed by this Ordinance, and authorize the methods of collection of the tax, as it determines to be appropriate.

3. The City Manager's designee, (which if not otherwise designated shall be the Finance Director), shall establish the procedures and guidelines for owners to apply for, and grant, the exemptions identified in this section and/or authorized by the Council. Owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for the exemption.

### **13.58.040 – Forgiveness of Tax**

- A. Any unpaid tax liability, including penalties, which have been levied on any parcel as a direct result of the tax imposed by this Ordinance, shall have the option to be completely forgiven in the event that the parcel is used solely for either of the following purposes:
  1. Is successfully sold, transferred, converted, developed or otherwise used in whole by a project or program financed by the City of Richmond Social Impact Bond Law as set forth in Chapter 2.66 of the Richmond Municipal Code; or
  2. Is successfully sold, transferred, converted, developed or otherwise used in whole to accommodate the active use of residential structures which have recorded a deed restriction with the County containing affordability covenants which make the unit(s) available to extremely low-, very low-, low-, and moderate-income households.
- B. The application of this section in relation to any parcel must be certified by the City Manager and the Finance Director and approved by the City Council before any unpaid tax liability is forgiven by the City and/or the County.
- C. The City Council may, by ordinance, establish a method for authorizing the forgiveness of the unpaid tax liability provided for in this section, and modify or expand the specific circumstances which shall qualify a parcel for forgiveness.

### **13.58.050 - Vacant Property Tax Fund**

The "Vacant Property Tax Fund" ("Fund") is hereby created as a special revenue fund. Proceeds from the Richmond Special Parcel Tax on Vacant Property, including penalties and interest earned on such proceeds, shall be deposited into the Fund and used only for the purposes listed in Section 13.58.060 of this chapter.

### **13.58.060 - Use of Vacant Property Tax Act Revenue**

Monies deposited in the Vacant Property Tax Fund shall be used solely for those purposes identified in this Section.

- A. Tax funds may be used to provide services and programs to homeless people, to reduce homelessness, and to support the protection of existing and production of new housing affordable to lower income households as defined in California Health and Safety Code

Section 50079.5 at an affordable housing cost or affordable rent as defined in Health and Safety Code Sections 50052.5 and 50053. Examples of such uses include, but are not limited to:

1. Job training, apprenticeship, pre-apprenticeship, drug treatment, and job readiness assistance programs for homeless people or those at risk of becoming homeless;
  2. Assistance connecting homeless people or those at risk of becoming homeless with available services and resources, including assistance applying for housing or public benefit programs;
  3. Housing assistance, including the provision of temporary housing or move-in expenses, such as first-month's rent and a security deposit, and emergency rental assistance;
  4. Sanitation, bathroom, and cleaning services related to homeless encampments and programs to supplement remedying and deterring blight and illegal dumping throughout the City;
  5. Incentive programs to encourage property owners to make space available for low-income housing, including making funds available for physical improvements to enable a unit to be used for a voucher-based housing program;
  6. Relocation assistance funding for low-income households facing displacement;
  7. Financial assistance for the design, development, construction or operation of affordable housing units, including housing alternatives such as, without limitation, shipping container homes, accessory dwelling units and small homes;
  8. Accessibility support to provide or maintain housing, and make needed improvements for accessibility, for seniors and persons with disabilities;
  9. Displacement prevention, tenant education and assistance, emergency rent assistance;
  10. Navigation centers to provide space for people to stay, along with on-site support services for the homeless. Funding may be used for both capital and operating costs related to navigation centers; and
- B. No less than 25 percent of the revenue deposited into the Vacant Parcel Tax Fund in any single year shall be used to pay for code enforcement and cleanup of

blighted vacant properties, other blight elimination, and remedying illegal dumping, including legal action to address any of the foregoing as necessary.

- C. Monies in the Vacant Property Tax Fund may be used to pay the costs of audits of the use of monies in the Fund.
- D. Monies in the Vacant Property Tax Fund may be used to pay for the City's costs of the election required to obtain voter approval of the tax authorized by this Ordinance, including City Attorney costs to prepare this Ordinance and related documents.
- E. Monies in the Vacant Property Tax Fund may be used to pay for the costs of administering the special tax, regardless of how or by what entity those administrative services are provided. No more than 15 percent of the revenue deposited into the Vacant Property Tax Fund in any single year may be used to pay for such administrative costs. Notwithstanding the foregoing, the City shall be reimbursed for its actual costs of establishing the program for collecting the tax, which costs shall be confirmed by the Finance Director. Administrative costs include, but are not limited to:
  - 1. The costs to the City of determining and identifying the use and vacancy status of every parcel in the City;
  - 2. The costs to the City associated with monitoring and enforcing compliance with this Ordinance. Authorized costs include, but are not limited to, any expenses, including attorneys' fees, associated with any proceedings needed to enforce the requirements of this Ordinance;
  - 3. The costs to the City associated with developing ordinances and regulations to implement this Ordinance;
  - 4. The costs to the City associated with the production of reports and recommendations as set forth in Section 13.58.070 of this Ordinance; and
  - 5. Reimbursement to the County for the costs it incurs in collecting the tax.
- E. If this Ordinance or the use of tax funds is legally challenged, tax funds may be used to reimburse the City for its costs of legal defense, including attorneys' fees and other expenses.

### **13.58.070 - Annual Report and Recommendations**

- A. The Richmond Housing Advisory Commission, as established by Chapter 3.48 of the Richmond Municipal Code, shall advise the City Council regarding use of the revenue generated by the Tax as authorized in Section 13.58.060.

1. The Commission shall publish an annual report regarding how and to what extent the City has implemented this Ordinance. Additionally, the Commission may publish reports regarding the following: 1) recommendations on how to allocate the tax funds in accordance with the requirements of this Ordinance; 2) information, if available, concerning the impact of this Ordinance on homelessness, illegal dumping and related issues in the City; and 3) any additional information that the Commission deems appropriate. The City Council may assign other duties to the Commission as provided for by Ordinance.
2. Within 30 days of receipt of a Commission report, the City Manager or designee shall cause the report to be published on the City's Internet website and to be transmitted to the City Council. The Report and Recommendations shall be included in the published packet and provided to the City Council as part of the Agenda at the meeting(s) at which the Council allocates the Vacant Property Tax funding.

### **13.58.080 - Accountability**

- A. In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the tax:
  1. A separate, special account, referred to as the Vacant Property Tax Fund, shall be created, into which the proceeds of the tax must be deposited.
  2. The specific purposes of the tax are for the funding of programs and services for homeless people, to reduce homelessness, and to support the provision of affordable housing and for as the other purposes set forth in Section 13.58.060 of this Ordinance. The proceeds of the tax shall be applied only to these specific purposes.
  3. The Finance Director shall perform regular audits to ensure accountability and proper disbursement of all revenue collected by the City from the tax imposed by this Ordinance, in accordance with the objectives stated herein and in compliance with provisions of California law.
- B. During the term of the tax, the City of Richmond shall not reduce the amount of unrestricted General Fund expenditures used for Code enforcement and cleanup of blighted vacant properties, other blight elimination, and illegal dumping remediation below the amount expended in the 2016-2017 fiscal year. The Finance Director's reports on the uses of the Vacant Property Tax Fund shall include the percentage that was spent on blight elimination and illegal dumping remediation and shall also evaluate whether the City has satisfied the requirement to maintain the set level of unrestricted General Fund expenditures. If the Finance Director finds that in any fiscal year the amount of unrestricted General Fund expenditures on blight elimination and illegal dumping remediation is less than the total amount expended in fiscal year 2016-2017, the City of

Richmond shall increase unrestricted General Fund expenditures for those uses within the following two fiscal years so that total unrestricted General Fund expenditures on those uses over three fiscal years is equal to three times the fiscal year 2016-17 expenditures.

**SECTION 4. Severability**

If any section, subsection, part, clause, sentence or phrase of this Ordinance or the application thereof is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the validity of the remaining portions of this Ordinance, the application thereof and the tax imposed shall not be affected thereby, but shall remain in full force and effect, it being the intent of the People to adopt each and every section, subsection, part, clause, or phrase regardless of whether any other section, subsection, part, clause, or phrase or the application thereof is held to be invalid or unconstitutional.

**SECTION 5. California Environmental Quality Act Requirements**

The City Council hereby determines that this Ordinance is not in-and-of-itself a “project” pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that vacant property tax revenues generated by the Ordinance may in the future be used to fund the construction of capital improvements, the Ordinance may assist in the financing of future “projects” that will be subject to environmental review pursuant to CEQA at the “earliest feasible time” prior to “approval” consistent with CEQA Guidelines Sections 15004 and 15352.

**SECTION 6. Approval; Effective Date**

If two-thirds of the qualified electors vote in favor of the ballot measure regarding this Ordinance, this Ordinance shall be adopted upon the date the vote therefor is declared by the City Council and shall go into effect ten days thereafter in accordance with California Elections Code Section 9217.

**SECTION 7. Council Amendments**

This Ordinance may only be amended by a vote of the people if the amendment would result in the special tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the voters. The City Council of the City of Richmond is hereby authorized to amend Chapter 13.58 of the Richmond Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rates, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

**SECTION 8. Expiration of Tax**

This Ordinance shall expire 20 years after it is first levied. By way of example only and without limiting the generality of the foregoing, if the tax were first levied in the 2020-21 tax year, the 2040-41 tax year would be the last year in which it may be levied. The voters of the City of Richmond may amend the term of the tax at any time prior to its expiration.

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