

**ORDINANCE NO. 8-09**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND AMENDING RICHMOND MUNICIPAL CODE SECTION 15.04.910.080(H) TO REQUIRE FINDINGS OF PUBLIC CONVENIENCE OR NECESSITY FOR APPROVAL OF A CONDITIONAL USE PERMIT FOR RETAIL SALES OF ALCOHOLIC BEVERAGES**

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**WHEREAS**, the California Department of Alcoholic Beverage Control (ABC) issues licenses for the sale of alcoholic beverages; and

**WHEREAS**, under California Business and Professions Code Sections 23815 *et seq.* and Section 23958, ABC may decline to issue an alcoholic beverage sales license if the applicant's place of business is in an area deemed to have an undue concentration of such licenses; and

**WHEREAS**, ABC may issue an alcoholic beverage sales license in an area of undue concentration if the local governing body of the area in which the applicant premises are to be located, or its designated subordinate officer or body, determines that public convenience or necessity would be served by the issuance; and

**WHEREAS**, the City Council finds that it is in the public interest to establish a standard procedure to be followed to determine whether the issuance of an alcoholic beverage sales license would serve the public convenience or necessity, and

**WHEREAS**, the City finds that this Ordinance update is Categorically Exempt per CEQA Section 15061(b)(3) of the CEQA Guidelines: Projects where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment,

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

**SECTION 1.** Section 15.04.910.080, subparagraph (H)(1), of the Zoning Ordinance of the City of Richmond Municipal Code is hereby amended to read as follows:

H. Alcoholic Beverage Retail Establishments (On-Sale and Off-Sale).

1. Conditional Use Permits Required for New Alcoholic Beverage Retail Establishments. On-sale and off-sale alcoholic beverage retail establishments, including convenience markets, liquor stores, restaurants, bars, and certain other establishments selling alcoholic beverages for consumption on or off the premises. Notwithstanding any other provision contained in Chapter 15.04, an on-sale or off-sale alcoholic beverage retail establishment shall only be permitted in commercial and industrial districts (excluding the M-1 district) and only if approved by the Planning Commission. Planning staff shall schedule a hearing before the Planning Commission within ninety (90) days from the

date that the application for a Conditional Use Permit for retail alcoholic beverage sales is completed or within ninety (90) days from the date that the Alcoholic Beverage Control department notifies the City of an application for a license, whichever is later. The Planning Commission may approve an on-sale or off-sale alcoholic beverage retail establishment providing the use conforms to the general criteria set forth in Section 15.04.910.050(A) of this section, to any and all applicable use permit criteria set forth in the particular district zoning regulations and to all of the following criteria:

- a. That the proposed use will not aggravate existing problems in the neighborhood created by the sale of alcohol; and
- b. That the proposed use will not adversely affect adjacent or nearby uses, including churches, schools, hospitals, parks, recreation centers, and residences; and
- c. That the proposed use will not interfere with vehicular or pedestrian circulation along a public street or sidewalk; and
- d. That the proposed establishment is of an architectural and visual quality that harmonizes with or enhances, where appropriate, the visual quality of the surrounding area, and that the design avoids unduly large or obtrusive signs, bleak, unlandscaped parking areas, and an overall garish appearance; and
- e. That there is not an undue concentration of alcoholic beverage establishments in the area, as defined in Business and Professions Code Section 23958.4, and that the number of alcoholic beverage sales licenses in the census tract does not exceed the limit set by the Department of Alcoholic Beverage Control; or
- f. If the criteria set forth in subparagraph e, above, are not met, then the Planning Commission must find that the public convenience or necessity would be served by approving retail alcoholic beverage sales at the proposed location for any two or more of the following reasons:
  - i. The sale of alcoholic beverages will enhance recreational or entertainment opportunities in the area.
  - ii. The sale of alcoholic beverages will promote the economic viability of the area in which it is proposed.
  - iii. The sale of alcoholic beverages complements the sale of other goods and merchandise at the location.
  - iv. The issuance of a license at the proposed location will improve the safety and convenience of area residents who purchase alcoholic beverages.

A standard list of conditions of approval shall be developed, and amended from time to time, by the Planning Director.

**SECTION 2. 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 3. Effective Date.**

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

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First reading at a regular meeting of the Council of the City of Richmond held March 17, 2009, and finally passed and adopted at a regular meeting thereof held **April 21, 2009**, by the following vote:

Ayes: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez and Mayor McLaughlin.

Noes: None.

Abstentions: None.

Absent: None.

**DIANE HOLMES**  
CLERK OF THE CITY OF RICHMOND

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. 08-09 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting on April 21, 2009.