

**ORDINANCE NO. 25-10**

**AN ORDINANCE OF THE CITY OF RICHMOND AMENDING THE RICHMOND  
MUNICIPAL CODE TO ALLOW EATING ESTABLISHMENTS TO OBTAIN  
ENCROACHMENT PERMITS FOR OUTDOOR SERVICE ON PUBLIC SIDEWALKS**

---

**WHEREAS**, the City Council finds that it is in the public interest to establish standards governing use of the public right-of-way, including streets and sidewalks, for the sale of food and beverages, and

**WHEREAS**, the City of Richmond requires all businesses that place encroachments in the public right-of-way to obtain a permit from the Engineering Division; and

**WHEREAS**, the Richmond Municipal Code does not include clear standards for use of the public right-of-way for temporary events, such as fairs and festivals, at which food and beverages are served; and

**WHEREAS**, the Richmond Municipal Code does not include explicit standards for obtaining Planning approval and an encroachment permit for the purpose of providing outdoor seating on the public sidewalk adjacent to eating establishments; and

**WHEREAS**, it is the intent of the City Council to provide citywide standards for obtaining a permit to serve food and beverages in the public right-of-way by amending various provisions of the Richmond Municipal Code; and

**WHEREAS**, the City finds that this Municipal Code text amendment is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline 15183: Projects that are consistent with the development density established by existing zoning and general plan for which an EIR was certified.

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

**SECTION 1.** Richmond Municipal Code Section 11.04.040 is hereby amended to read as follows:

**11.04.040 Exemptions.**

The provisions of Section 11.04.020 shall not apply to the consumption, drinking, exhibition, or possession of an open container of alcoholic or intoxicating beverages in a public park, recreation area, or public right-of-way (including streets, sidewalks, and alleys) under one or more of the following conditions:

- (1) Where the sale of alcoholic beverages has been approved or licensed for the public park, recreation area, or public right-of-way by both the California Department of Alcoholic Beverage Control and the City of Richmond;
- (2) Where, at least 24 hours before using the park or recreation area, a written permit to possess alcoholic or intoxicating beverages in a specific public park or recreation area has been obtained from the City and the fee established by the resolution establishing fees and charges for various municipal services of the City for said permit has been paid;
- (3) The use or activity in the park, recreation area, or public right-of-way is a temporary event sponsored or authorized by the City; or
- (4) The use or activity is conducted in conjunction with and adjacent to a licensed business, and in accordance with all conditions of approval of a Conditional Use Permit approved by the Planning Commission and a valid encroachment permit issued by the Engineering Division of the City of Richmond.

**SECTION 2.** Richmond Municipal Code Section 12.38.340 is hereby amended to read as follows:

**12.28.340 Construction, hanging and use of awnings and signs regulated--Obstructions on sidewalks prohibited without an encroachment permit.**

No person owning or occupying any premises fronting on a public street shall place any goods, wares or merchandise, for the purpose of exhibitions display or advertisement, on any portion of the sidewalk in front of said premises, nor suffer any such goods, wares or merchandise, or any advertising banner or device over any portion thereof.

No person shall place any crates, cases, barrels or boxes on the sidewalks nor suffer anything to remain thereon in front of premises occupied by him which will in any manner restrict the public use thereof. No sign shall be suspended above and across any sidewalk except as hereinafter provided. No flag, canvas, banner, nor any advertising device of any description whatever shall be stretched across any street or sidewalk without permission of the City Council of the City of Richmond.

The prohibitions set forth in this section shall not prevent a business from obtaining an encroachment permit pursuant to Section 12.28.365.

**SECTION 3.** Richmond Municipal Code Section 12.28.365 is hereby added to read as follows:

**12.28.365 Temporary Encroachment Permit for Use of Sidewalk.**

A. A business occupying premises fronting on a public street may obtain or renew a permit to encroach upon the public sidewalk for a period of up to one year provided all of the following conditions are satisfied:

- (1) The sidewalk adjacent to the business is at least ten feet wide.
- (2) The proposed encroachment will leave an unobstructed pedestrian travel lane of at least five feet in width.
- (3) The proposed encroachment will not inhibit use of or access to facilities addressing the needs of the mobility impaired, as required by the Americans with

Disabilities Act.

- (4) The proposed encroachment will not inhibit use of or access to legally existing encroachments, such as utility service boxes.
- (5) The applicant submits to the Engineering Division plans drawn to scale showing the proposed dimensions of all encroaching structures, facilities, furniture, landscaping, and appurtenances, and demonstrating compliance with subparagraphs (1) – (4), above.
- (6) The applicant submits to the Engineering Division a brief description of the nature of the encroachment and the proposed duration of the encroachment. The permit fee for an encroachment remaining in place for less than one year will be a prorated portion of the annual fee.
- (7) The applicant submits to the Engineering Division written verification that the City of Richmond Planning Department and Fire Department, as well as the California Department of Alcoholic Beverage Control if the applicant proposes to serve alcohol within the public-right-of-way, have reviewed and approve the proposed encroachment.
- (8) The applicant pays all plan review fees and all encroachment permit fees.

B. Within ten business days after submittal of all required application materials and the payment of plan review fees, the Engineering Division will render a decision on an encroachment permit application. Encroachments may be permitted for up to one year and may be renewed for periods of up to one year. The Engineering Division may attach such conditions to an encroachment permit as are necessary to preserve the public health, safety and welfare.

**SECTION 4.** Richmond Municipal Code Section 15.04.910.080(I)(2) is hereby amended to read as follows:

2. Such conditional use permit may include conditions specifically intended to mitigate any adverse or potentially adverse impacts from the sale of on-premises alcoholic beverages. Said conditions may include, but shall not be limited to, improvements to the appearance, accessibility or safety of the premises. Service of alcoholic beverages shall be limited to the business premises unless the Planning Commission approves a condition allowing the business owner to seek an encroachment permit for outdoor service on a public sidewalk.

**SECTION 5. 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 6. Effective Date.**

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

First reading at a regular meeting of the Council of the City of Richmond held July 20, 2010 and finally passed and adopted at a regular meeting thereof held August 2, 2010 by the following vote:

AYES: Councilmembers Butt, Lopez, Ritterman, Rogers, Viramontes, and Mayor McLaughlin  
NOES: None  
ABSTENTIONS: None  
ABSENT: Councilmember Bates

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:

GAYLE McLAUGHLIN  
Mayor

Approved as to form:

RANDY RIDDLE  
City Attorney

I certify that the foregoing is a true copy of Ordinance No. 25-10 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting August 2, 2010.