

ORDINANCE NO. 2022-06

URGENCY INTERIM ORDINANCE EXTENDING A MORATORIUM ON HEAVY DISTRIBUTION LAND USE DEVELOPMENT IN THE NORTH RICHMOND AREA

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. FINDINGS AND PURPOSE.

- A. The purpose of this urgency ordinance is to extend a temporary moratorium on the establishment or expansion of fulfillment centers, parcel hubs, and parcel sorting facilities in the North Richmond Area while the County considers developing reasonable regulations to address the individual and cumulative impacts caused by those uses.
- B. The area of North Richmond is the area located within the boundaries of the North Richmond P-1 (Planned Unit) District adopted by the Board of Supervisors on December 12, 1994 (the “North Richmond Area”). The North Richmond P-1 District encompasses the entire North Richmond community.
- C. The North Richmond Area is designated in the County General Plan primarily for heavy industrial and light industrial land uses, but also includes areas designated for residential and public space land uses. Existing industrial land uses in the North Richmond Area consist of floricultural growing operations, distribution operations, recycling and auto dismantling operations, a resource recovery facility, and a water reclamation facility.
- D. The North Richmond Area also includes an elementary school, single- and multi-family dwellings, parks and recreation, open space, and an urban farm outdoor education center for at-risk youth. Many of these uses are adjacent to or located near the industrial land uses in the North Richmond Area.
- E. Due to the recent and rapid expansion of e-commerce in recent years and need for local fulfillment centers and operations, the North Richmond Area has seen a significant increase in fulfillment centers, parcel hubs, and parcel sorting facilities (collectively and individually, “Heavy Distribution”). A “fulfillment center” is a facility where the primary purpose is storage and distribution of e-commerce products to consumers or end-users, either directly or through a parcel hub. A “parcel hub” is a last mile facility or similar facility where the primary purpose is the processing or redistribution of parcels or products, primarily by moving a shipment from one mode of transport to a vehicle with a rated capacity of less than 10,000 pounds, for delivery directly to consumers or end-users. A “parcel sorting facility” is a facility where the primary purpose is the sorting or redistribution of parcels or products from a fulfillment center to a parcel hub.
- F. With this increase in Heavy Distribution, residents and businesses within the North Richmond Area face increased truck traffic and the following related adverse impacts: increased safety risk to smaller vehicles, pedestrians, and bicyclists; increased damage to streets; traffic congestion and reduced levels of service on streets and at intersections; and increased emissions and air quality impacts.

- G. The Board of Supervisors has additional concerns that the cumulative impacts caused by the increase in Heavy Distribution in the North Richmond Area have not been sufficiently considered and analyzed given that Heavy Distribution often operates on a 24-hour basis and may cause deteriorating air quality, health, noise, vibration, and other disruptions to peace and quiet that may impact surrounding sensitive uses, such as schools and residences. As with current industrial uses located in the North Richmond Area, new or expanded Heavy Distribution uses may be located adjacent to or near sensitive uses, such as schools and residences.
- H. The North Richmond community has been designated by the California Air Resources Board and the Bay Area Air Quality Management District as one of only 15 communities in California to be part of State Assembly Bill (AB) 617's Community Air Protection Program. The purpose of this program is to reduce emissions exposure in California's communities that are most impacted by air pollution. A community steering committee has been established to guide the development of a Community Emissions Reduction Program to improve air quality in North Richmond, Richmond, and San Pablo. The current proliferation of Heavy Distribution uses in the North Richmond Area without appropriate evaluation is inconsistent with AB617's goal of reducing harmful particulate matter emissions in the State's most heavily impacted communities.
- I. The Board of Supervisors has determined that Heavy Distribution has potentially detrimental impacts upon the North Richmond community that are not addressed by the County's current General Plan and zoning regulations. Under these current regulations, Heavy Distribution is consistent with the existing General Plan industrial land use designations in the North Richmond Area and is permitted within the North Richmond P-1 District. There is a need to study and develop policies to address various individual and cumulative impacts associated with Heavy Distribution. Specifically, there is a need for additional locational criteria and traffic and air quality impact mitigation requirements to protect businesses, residents, and other sensitive uses in the North Richmond Area.
- J. The Department of Conservation and Development is considering a zoning text amendment to the North Richmond P-1 District to address the individual and cumulative impacts of Heavy Distribution.
- K. On December 14, 2021, the Board of Supervisors adopted Ordinance No. 2021-43, an urgency interim ordinance that established a moratorium on Heavy Distribution land use development in the North Richmond Area.
- L. This ordinance, extending the moratorium, is necessary to proceed with an orderly planning process that takes into account consideration of the zoning text amendment for the North Richmond P-1 District. A threat to the public health, safety, and welfare would result if Heavy Distribution land use entitlements or building permits are accepted and approved under the existing North Richmond P-1 District. If Heavy Distribution land uses are allowed in the North Richmond Area under the existing North Richmond P-1 District, they could conflict with and defeat the purpose of the contemplated zoning text amendment. The failure to extend the moratorium during the stated period may result in significant irreversible impacts to businesses, residents, and other sensitive uses in the North Richmond Area that would not be adequately analyzed or mitigated.

SECTION II. EXTENSION. The existing moratorium established by Ordinance No. 2021-43 is extended for 10 months and 15 days, through December 3, 2022.

SECTION III. PROHIBITION. The existing moratorium on certain development in the North Richmond Area is extended as follows:

- (a) While this interim ordinance is in effect, no new Heavy Distribution land use shall be established and no existing Heavy Distribution land use shall be expanded within the North Richmond Area, except as otherwise provided in Section IV. No applications for a land use entitlement or building permit for Heavy Distribution shall be accepted or processed, and no land use entitlement or building permit for Heavy Distribution shall be approved or issued, for any parcel or portion of a parcel located within the North Richmond Area.
- (b) This moratorium applies to the North Richmond Area, which is the area located within the boundaries of the North Richmond P-1 District, as shown on Exhibit A, which is attached and incorporated by reference.

SECTION IV. EXEMPTIONS. The prohibition set forth in Section III does not apply to any application for a land use entitlement or building permit for Heavy Distribution that has been deemed complete by the Department of Conservation and Development as of December 14, 2021.

SECTION V. REPORTS. In accordance with subdivision (d) of Government Code section 65858, ten days before the expiration of this ordinance and any extension of it, the Department of Conservation and Development shall file with the Clerk of this Board a written report describing the measures taken to alleviate the conditions that led to the adoption of this urgency interim ordinance.

SECTION VI. SEVERABILITY. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications thereof that can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

SECTION VII. DECLARATION OF URGENCY. This interim ordinance is hereby declared to be an urgency ordinance for the immediate preservation of the public safety, health, and welfare of the County, and it shall take effect immediately upon its adoption. The facts constituting the urgency of this interim ordinance's adoption are set forth in Section I.

SECTION VIII. EFFECTIVE PERIOD. This ordinance becomes effective immediately upon passage by four-fifths vote of the Board of Supervisors and shall continue in effect for a period of 10 months and 15 days, through December 3, 2022, pursuant to Government Code section 65858.

SECTION IX. PUBLICATION. Within 15 days of passage, this ordinance shall be published once with the names of the supervisors voting for and against it in the East Bay Times, a newspaper published in this County.

PASSED ON _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: MONICA NINO

Clerk of the Board of Supervisors
and County Administrator

Board Chair

By:

Deputy

[SEAL]

KCK:

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