

**ORDINANCE NO. 06-25 N.S.**

**AN URGENCY ORDINANCE, PURSUANT TO GOVERNMENT CODE SECTION 65858, BY THE CITY COUNCIL OF THE CITY OF RICHMOND, ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE OF BUILDING PERMITS REQUIRING A NEW SEWER CONNECTION TO THE KELLER BEACH SANITARY SEWER; AND DECLARING THE URGENCY THEROF**

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WHEREAS, the Keller Beach Sanitary Sewer was constructed in 1959 and consists of 5,392 linear feet of 8 to 12 inch concrete-encased cast iron interceptor pipe and twenty five (25) sewer structures located within the pipeline, consisting of seventeen (17) manholes and eight (8) cleanouts ("KBSS"); and

WHEREAS, KBSS is located off of Keller Beach in the San Francisco Bay, and remains submerged during ordinary tides, making repair and maintenance of the sewer very difficult due to the limited hours where the sewer can be reached and hazardous conditions; and

WHEREAS, given the location of the KBSS, pipe failure and/or sewage leaks would result in significant environmental harm with the limited ability to quickly remediate the damage and/or leaks due to limited accessibility; and

WHEREAS, additional development requiring sewer connections to KBSS poses an immediate threat to the public health, safety, and welfare, as these new sewer flows could exacerbate the potential for a catastrophic failure which could cause a significant public health and safety threat to existing residences; and

WHEREAS, on November 17, 2021, the City received a commissioned assessment and CCTV analysis regarding KBSS. The report recommended performing immediate repairs to the KBSS and potential removal and replacement of portions of KBSS to a different location; and

WHEREAS, on January 18, 2022, the City Council adopted Urgency Ordinance No. 01-22 N.S., establishing a temporary moratorium on the issuance of building permits requiring new sewer connections to the Keller Beach Sanitary Sewer (KBSS) due to concerns about system capacity, structural integrity, and regulatory compliance; and

WHEREAS, on March 1, 2022, the City Council adopted Urgency Ordinance No. 05-22 N.S., to extend Urgency Ordinance No. 01-22 N.S. in accordance with Government Code Section 65858 for an additional 10 months and 15 days, expiring on January 17, 2023;

WHEREAS, on February 21, 2023, in accordance with Government Code Section 65858 the City Council adopted Urgency Ordinance No. 02-23 N.S., establishing a 45-day moratorium on the issuance of building permits requiring new sewer connections to the Keller Beach Sanitary Sewer (KBSS) due to concerns about system capacity, structural integrity, and regulatory compliance;

WHEREAS, on April 4, 2023, the City Council adopted Ordinance No. 03-23 N.S. to extend Urgency Ordinance No. 02-23 N.S. in accordance with Government Code Section 65858 for an additional 22 months and 15 days, expiring on February 19, 2025; and

WHEREAS, since the adoption of the moratorium, the City has worked with consultants and engaged in community outreach to explore long-term solutions for rehabilitating or replacing the KBSS; and

WHEREAS, a study initiated under a contract with Coastland Engineers was disrupted when the firm withdrew in March 2024, citing concerns about public engagement and project direction following City Council action on December 19, 2023, that mandated further review of alternatives under the Baykeeper Settlement Agreement; and

WHEREAS, following the withdrawal of Coastland Engineers, City staff has been working to identify a new consultant to conduct a peer review and develop an actionable replacement plan,

but delays have resulted due to extensive public and political engagement, as well as the need to secure qualified facilitation and engineering expertise; and

WHEREAS, on July 31, 2024, the City hosted a public outreach meeting facilitated by Kearns and West to provide updates and gather feedback, but additional focus group meetings and coordination efforts remain ongoing; and

WHEREAS, the City has determined that a final scope of design and construction for the KBSS replacement or rehabilitation is currently undetermined, and the estimated completion of the replacement project will take multiple additional years beyond the current moratorium expiration date; and

WHEREAS, City staff is in the process of developing an interim solution in the form of sewage holding tanks that could allow affected property owners to proceed with development, but this solution requires technical standards, regulatory approvals, and implementation planning, which is expected to take six to nine months before it is brought to City Council for approval; and may also explore other options to ensure that new sewer connections do not increase the sewage load in the KBSS; and

WHEREAS, allowing new connections to the KBSS, which are not authorized by this Ordinance and which increase sewage flow to the KBSS, before it is repaired or replaced could result in further deterioration, potential system failures, and environmental risks, as well as non-compliance with regulatory requirements, including those enforced by the San Francisco Bay Regional Water Quality Control Board, California Department of Fish and Wildlife, and US Army Corps of Engineers; and

WHEREAS, these issues constitute a current and immediate threat to the public health, safety, and welfare, within the meaning of Government Code Section 65858; and

WHEREAS, on February 18, 2025 the City Council held a duly noticed public hearing to consider adoption of this Ordinance, including providing a public notice pursuant to Government Code § 65090; and

WHEREAS, Government Code Section 65858 authorizes the City Council to adopt an urgency ordinance by a four-fifths vote to temporarily prevent development and/or construction that threatens the public health, safety, and welfare of citizens residing in the Sewer Moratorium Area (attached and incorporated as Exhibit A); and

WHEREAS, Government Code Section 66300 authorizes a moratorium impacting housing development only where such a moratorium would protect against an imminent threat to the health and safety of person residing in, or within the immediate vicinity of, the area subject to the moratorium and after the Department of Housing and Community Development has reviewed said moratorium; and

WHEREAS, the City has consulted with and submitted this Ordinance to the Department of Housing and Community Development for review and approval pursuant to Government Code Section 66300, and this Ordinance shall not be enforceable against housing development until the City has received said approval of this moratorium; and

WHEREAS, the Richmond City Council has determined that a temporary moratorium on the issuance of building permits requiring a new sewer connection to KBSS is necessary to preserve the public health, safety, and welfare, and to protect against the imminent threat to the health and safety of person residing in the Sewer Moratorium Area, and the “Whereas” clauses above taken together constitute the City Council’s statements and reasons constituting such necessity and urgency.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Richmond does ordain as follows:

**SECTION 1.** The City Council finds and determines the foregoing recitals to be true and correct are incorporated herein by reference as it set forth in full.

**SECTION 2.** The City Council finds and determines the Ordinance is not a project under the California Environmental Quality Act (CEQA), in that it maintains the existing physical environment and prevents changes in the environment and so does not have the potential for resulting in either a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15378(a)). It is also exempt under Guidelines Sections 15060(c)(2), as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and Section 15061(b)(3), as there is no possibility that the adoption of this Ordinance may have a significant effect on the environment because it maintains the existing condition of the environment.

**SECTION 3. Moratorium.** A 45-day moratorium is hereby imposed on the issuance and approval of all building permits that would require a new sewer connection to the Keller Beach Sanitary Sewer, further identified in the attached and incorporated Exhibit A. Accordingly, no such permit may be issued or approved while this moratorium, as it may be extended, is in effect. For the purposes of this Ordinance, “sewer connection” means connecting a building’s drainage system which conveys the discharge from soil, waste, and other drainage pipes of a business or residence, to the City’s sewer main or other applicable sewer infrastructure.

**SECTION 4. Term of Moratorium.** In accordance with Government Code Section 65858, this Ordinance shall be in full force and effect for a period of 45 days from the date of its adoption, i.e., from February 18, 2025 through and including April 4, 2025, or, for housing developments, from the date when the Department of Housing and Community Development approves this moratorium, whichever occurs later. This 45-day period may be extended by the City Council in accordance with the provisions in Government Code Section 65858.

**SECTION 5. Exceptions.** The following development activities within the City limits requiring a sewer connection to Keller Beach Sanitary Sewer identified in Exhibit A are exempt from the moratorium established in Sections 3 and 4:

- a. Any projects that have vested rights to a new sewer connection because of previously issued building permits; and
- b. Projects ordinarily requiring a connection to the Keller Beach Sanitary Sewer for which an application is submitted that proposes a design for the extension of a sewer main to an alternative segment, or which proposes a temporary or permanent solution that meets health & safety standards and creates no more sewage into the Keller Beach Sanitary Sewer than existing development on the site, the design which is approved by the City Engineer or Public Works Director, and the applicant agrees to be solely responsible for all costs and expenses of installing and maintaining said sewer main or temporary or permanent solution, among other terms and conditions provided by the City in an executed and recorded written agreement between the City and property owner/developer to this effect.

**SECTION 6.** During the term of this moratorium, the Department of Public Works is hereby directed to prepare a scope of work for a feasibility study to determine if the existing sewage flow into the Keller Beach Sanitary Sewer may be reduced, through measures including but not limited to rerouting sewage flow from homes located on Golden Gate Avenue, Bishop Avenue, Bishop Aly, and Washington Ct.; and to report to the City Council prior to the expiration of the moratorium on actions needed to complete the feasibility study.

**SECTION 7.** A development application for which a sewer connection to the Keller Beach Sanitary Sewer is required may be processed during the moratorium and any extension of the moratorium. However, the application shall be processed at the applicant’s sole cost and expense and with the understanding that no building permit shall be issued until the moratorium, including any extension of the moratorium, has expired and that such permit may not be issued if it is inconsistent with any amendments to the municipal code, ordinances, or regulations that are amended by reason of the review that occurs during the moratorium. During the effective period of this moratorium, time periods requiring the commencement of a proposed use or construction shall be tolled for existing entitlements and for entitlements approved during the effective period of the moratorium, for the duration of time that the moratorium is in effect.

**SECTION 8. Petition for Relief from Moratorium.**

- a. Any person who has applied for a permit or entitlement which would be affected by this Ordinance, and who contends that the Ordinance as applied to them would unlawfully restrict the use of the subject property may submit a written application to the Planning Commission requesting relief from this Ordinance. The petition for relief from the moratorium shall identify the name and address of the applicant, the affected application number, and shall state how the Ordinance as applied to them would affect the applicant's reasonable use and economic value of the subject property. The Planning Commission, or their designee, shall mail to the applicant a written determination accepting or rejecting the request for relief from Ordinance.
- b. In deciding the question of whether relief shall be provided from the moratorium, the Planning Commission shall make the findings as to the applicant's:
  1. Reasonable, investment-backed expectation;
  2. Reasonable, economic use of the subject property;
  3. The timing and the impact of adding the KBSS connection; and
  4. Whether the impacts are reasonable under the circumstances.
- c. Public Hearing.
  1. In deciding the petition for relief, the Planning Commission shall conduct a public hearing and shall set a time and place for such hearing to be held within thirty (30) days of the City's receipt of a complete petition for relief;
  2. At least ten (10) days before the public hearing, the City shall make available to the public copies of the petition for relief in the office of the City Clerk;
  3. Notice of the public hearing shall be provided in accordance with Richmond Municipal Code Article 15.04.803;
  4. After receiving public comment, the Planning Commission shall approve, deny, or modify the petition for relief based on the required findings of Section 7(b) above within thirty (30) days following the hearing;
  5. The City shall promptly notify the applicant in writing of the Planning Commission's decision on the petition for relief and shall state the reasons and grounds therefore. The City shall also mail notice of its decision to members of the public who have requested notice.
- d. Appeal.
  1. Any person aggrieved by the Planning Commission's decision on the applicant's petition for relief may appeal to the City Council by submitting a written appeal to the City Clerk within ten (10) days of the decision date. The appellant shall remit the appeal fee listed in the City's Master Fee Schedule when submitting the appeal.

**SECTION 9.** The City Clerk shall certify to the passage and adoption of this Ordinance, causing it to be posted, as required by the law, and it shall thereafter be in full force and effect. This Ordinance shall become effective immediately as an urgency ordinance, in order to protect the public health, safety, and welfare.

**SECTION 10.** For the term of this Ordinance, as set forth in Section 4 hereof, the provisions of this Ordinance shall govern, to the extent there is any conflict between the provisions of this Ordinance and the provisions of any other City Code, ordinance, resolution or policy, and all such conflicting provisions shall be suspended.

**SECTION 11.** This Ordinance is enacted pursuant to the City of Richmond's general police powers, Article II of the Charter of the City of Richmond, Article XI of the California Constitution, and Government Code Section 65858.

**SECTION 12. 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 hereby certify that the foregoing Urgency Ordinance of the City Council of the City of Richmond was duly passed and adopted at a regular meeting thereof held February 18, 2025, by the following vote:

AYES: Councilmembers Bana, Brown, Jimenez, Robinson, Wilson, Vice Mayor Zepeda, and Mayor Martinez.  
NOES: None.  
ABSTENTIONS: None.  
ABSENT: None.

PAMELA CHRISTIAN  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:  
EDUARDO MARTINEZ  
Mayor

Approved as to form:  
DAVE ALESHIRE  
City Attorney

State of California }  
County of Contra Costa : ss.  
City of Richmond }

I certify that the foregoing is a true copy of **Urgency Ordinance No. 06-25 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on February 18, 2025.

  
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Pamela Christian, Clerk of the City of Richmond

Exhibit A: Sewer Moratorium Area

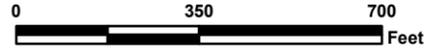
**PUBLIC WORKS DEPARTMENT**



January 2022



1 inch = 350 feet



**Legend**

**Sewer Fitting**

- Lamphole, Active
- Lamphole, Private
- Lamphole, Buried
- Other
- Wye

**Sewer Manhole**

- Active
- Buried
- Abandoned

**Sewer Structure**

- Pump Station

**Sewer Force Main**

- Force Main

**Sewer Gravity Main**

- Active
- Relief
- Abandoned

- Parcel Lines

**Moratorium Parcels by Use Code**

- Fourplex
- Single family, 1 residence on 2 or more sites
- Single family on other than single family land
- Single family residential, detached, w/common area (normal Subdivision type PUD); duets w/common area
- Single family, 2 or more residential on 1 or more sites
- Attached PUD's, cluster homes, co-ops, condos, townhouses, etc.
- Duplex
- Triplex
- Single family, 1 residence on 1 Site and Duets w/o common areas
- Apartments, 5-12 units, inclusive
- Residential Vacant, 1 site (includes PUD sites)
- Residential Vacant, 2 or more sites
- Residential Vacant, unbuildable
- Industrial Vacant Land (not part of industrial park or P. and D.)
- No Data
- Common area parcels in PUD's (open spaces, recreational facilities)
- Government-owned, with or without buildings (federal, state, city, BART)
- Miscellaneous improvements, 1 site

