

ORDINANCE NO. 16-11 N.S.

ORDINANCE AMENDING CHAPTER 2.64, ARTICLE II, OF THE RICHMOND MUNICIPAL CODE AUTHORIZING A MUNICIPAL IDENTIFICATION PROGRAM TO PROVIDE FOR THE ISSUANCE OF MUNICIPAL IDENTIFICATION CARDS TO RESIDENTS OF THE CITY OF RICHMOND FOR THE PURPOSES OF IMPROVING PUBLIC SAFETY, INCREASING CIVIC PARTICIPATION, AND SUPPORTING LOCAL COMMERCE

WHEREAS, many Richmond residents – including but not limited to immigrants, children and students, the homeless, transgender, the indigent, the disabled and elderly, runaway youth and adult survivors of domestic violence, and others – currently suffer from the lack of official identification, which restricts their access to law enforcement, financial institutions, jobs, housing, and home and workplace protections; and

WHEREAS, many marginalized communities lack a valid form of identification and without identification are afraid to report crimes to the police: and

WHEREAS, those who lack a valid form of identification are also often afraid to report labor and housing violations – such as blighted properties, slum landlords, and workplace health, safety, and wage violations – to the appropriate authorities; and

WHEREAS, without appropriate identification, it is difficult to open bank accounts, and immigrants carrying large amounts of cash are therefore specifically targeted for robbery and other violent crimes; and

WHEREAS, lack of a valid form of identification translates into limited access to financial institutions and fear of police and other city officials, thus resulting in decreased participation in the formal city economy and other civic matters; and

WHEREAS, a Richmond Municipal Identification Card will make it easier for all residents to participate in local and regional commerce – by opening a bank account, establishing credit, and accessing loans and the housing market; and

WHEREAS, the Richmond Municipal Identification Card will fill a void by providing an official form of personal identification for the many Richmond residents who currently lack one; and

WHEREAS, the Municipal Identification Card will unify the Richmond community, make it safer and more secure, benefit the local economy, and facilitate participation in public and private City activities; and

WHEREAS, the Cities of New Haven, Connecticut and San Francisco, California have implemented such municipal ID programs and have reported an increase in reporting of crimes in those cities; and

WHEREAS, the City of Oakland, California approved a Municipal Identification Card program in November 2010 and has selected a vendor to implement it; and

WHEREAS, the Richmond Municipal ID Card will be unique to the City of Richmond and will be produced with the highest privacy and security measures built in to protect the public safety and against counterfeit reproduction; and

WHEREAS, the City wishes to take appropriate measures – including but not limited to implementing meaningful benefits and uses for the Richmond Municipal Identification Card and developing substantial partnerships for its implementation – to ensure that the card is widely

used and thereby of the greatest benefit to its residents and the aforementioned marginalized populations; and

WHEREAS, the City wishes to create a reliable form of identification for all its residents; and

WHEREAS, the City wishes to administer its Municipal Identification Card program at no net cost to the City; and

WHEREAS, the City desires and anticipates that the Municipal Identification Card program will be operated by a Third Party Administrator selected through an expedited Request for Qualifications (RFQ) issued by the City Manager, in compliance with the requirements set forth in Section 5 of this Ordinance; and

WHEREAS, the City Council wishes to emphasize that vendors responding to the RFQ – like those who respond to any RFQ – are eligible for any applicable bid discounts or bonuses available under Richmond’s Business Opportunity Ordinance, Richmond Municipal Code Chapter 2.50; and

WHEREAS, the City Council has considered the application of the California Environmental Quality Act (CEQA) to the implementation and administration of the Municipal ID Card Ordinance set forth below;

NOW, THEREFORE, BE IT RESOLVED, that in compliance with the CEQA, the Council of the City of Richmond finds that the approval of Chapter 2.64 described below is not a project and is therefore exempt from CEQA; and be it

FURTHER RESOLVED THAT the council of the city of Richmond does ordain as follows:

Section 1. That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this Ordinance.

Section 2. That the following provisions are hereby added to Chapter 2.64 of Title II, Administration and City Government, of the Richmond Municipal Code, to read as follows:

2.64.010 Municipal Identification Cards – Definitions

For purposes of Sections 2.64.010 through 2.64.090, the following definitions shall apply.

“City” shall mean the City of Richmond, or any department, board, commission or agency thereof.

“Municipal Identification Card” shall mean an identification card issued by the City of Richmond that shall display, including but not limited to, the cardholder’s name, photograph, address, date of birth, and an expiration date.

“Program Administrator” shall mean the City Manager or such other City Department or Agency that the City Manager may designate, who shall be responsible for coordinating with the Third Party Administrator selected to implement and administer the Municipal Identification Card program.

“Resident” shall mean a person who can demonstrate that he or she has been present in the City of Richmond for at least fifteen continuous days and who presents “proof of residency” as specified in Section 2.64.030 (A) (2)

“Third Party Administrator” shall mean the vendor selected through an expedited Request for Qualifications (“RFQ”) issued by the City Manager to implement and

administer the Municipal Identification Card program at no net cost to the City, its divisions, subdivisions, or agencies.

2.64.020 Issuance and Purpose of Municipal Identification Cards

- A. Upon request, the Program Administrator shall issue a Municipal Identification Card to any Resident who meets the application requirements set forth below in Section 2.64.030 and pays the applicable fee. The Card shall bear the seal of the City, and the Program Administrator shall cause the Card to be produced in a form intended to thwart replication or counterfeiting. Cards shall be valid for a maximum of two years from the date of issuance as long as residence in the City is maintained during that time. Card holders shall surrender their Municipal Identification Card upon moving residence out of the City of Richmond.
- B. It is the City's intent that Municipal Identification Cards will provide residents with a means of proving their residency in the City of Richmond, for the purpose of accessing City programs, services and activities, as well as helping to substantiate their identity to law enforcement personnel..

2.64.030 Applications

- A. To obtain a Municipal Identification Card, a Resident shall complete an application, under penalty of perjury, requiring proof of identity and proof of residence within the City. Upon receipt of both the proof of identity and residency that this Section specifies, and of the applicable fee, the Program Administrator or his or her designee shall issue a Card to the applicant.
 - 1. **Proof of Identity.** To establish identity, each applicant must present either:
 - a. One of the following documents containing both the applicant's photograph and date of birth: a U.S. or foreign passport; a driver license issued by any state or territory of the United States; a state identification card issued by any state or territory of the United States; a U.S. Permanent Resident Card (commonly known as "Green Card"); a consular identification ("CID," in some instances referred to as a "Matricula Consular") card; or a photo identification card issued by another country to its citizens or nationals that meets the following requirements:
 - i. The issuing country authorizes the use of the card as an alternative to a passport for re-entry into the issuing country; and
 - ii. The card has a photograph of the person and the person's date of birth; and
 - iii. The card meets standards established by the Program Administrator to ensure that (1) the applicant was required to provide reliable identifying information in order to obtain the card and (2) the card has features reasonably designed to protect against fraud and counterfeit reproduction.

In determining whether the identification meets these requirements, the Program Administrator or his or her designee

may use standards adopted by the National Notary Association or the California Association of Notaries for this purpose.

Notwithstanding the above, if the applicant is thirteen years of age or younger, he or she may present a certified copy of a U.S. or foreign birth certificate to establish identity under this subsection; or

- b. Two of the following documents, provided that at least one form of identification shall display the applicant's photograph and date of birth: a national identification card with photo, name address, date of birth, and expiration date; a foreign driver's license; a U.S. or foreign military identification card; a current visa issued by a government agency; a U.S. Individual Taxpayer Identification Number (ITIN) authorization letter; an identification card issued by a California educational institution, including elementary, middle, secondary, and post secondary schools; a certified copy of a U.S. or foreign birth certificate; a court order issued by a state or federal court to verify a person's identity; or a Social Security card. Notwithstanding the above, where the applicant is age thirteen or under, he or she may present an official medical record and/or official school record to establish identity under this subsection, provided that at least one of the two forms of identification presented shall display the applicant's date of birth.

2. **Proof of Residence**

- a. To establish residency, each applicant must present one of the following items, provided that the item includes both the applicant's name and a residential address located within the City; a utility bill dated within the last thirty days; a written verification confirming at least fifteen days residency within the last thirty days issued by a homeless shelter that: (a) is operated by the State or County, (b) holds a business license with the City of Richmond, or (c) meets criteria established by the City Manager by regulation;; written verification issued by a hospital health clinic, or social services agency that: (a) is operated by the State or County, (b) holds a business license with the City of Richmond, or (c) meets criteria established by the City Manager by regulation;; a local property tax statement or mortgage payment receipt dated within the last thirty days; proof of a minor currently enrolled in a school in the City of Richmond; an employment pay stub dated within the last thirty days; a jury summons or court order issued by a state or federal court dated within the last thirty days; a federal or state income tax or refund statement dated within the last thirty days; or an insurance bill (homeowner's, renter's, health, life or automobile insurance) dated within the last thirty days. If a certified copy of a marriage certificate is presented at the time of application, and applicant may prove residency using documents bearing the name of his or her spouse.
- b. The Program Administrator may by regulation provide that if an applicant is thirteen years of age or younger, cannot produce any of the items set forth in this Subsection (A) (2) to prove residency, a parent or legal guardian may verify the applicant's residency,

provided that the parent or guardian would be eligible for a Municipal identification Card.

3. The Program Administrator may by regulation provide for acceptance of additional form of proof of identity and/or proof of residency, provided that the Program Administrator determines that such forms of proof are:
 - a. issued by a government entity, or
 - b. issued by an entity that takes reasonable steps to verify the identity and/or residency of the individual to whom the item is issued; or
 - c. of a type that is normally accepted as proof of identity and/or proof of residency in the ordinary course of business.
- B. An application submitted on behalf of a minor must be completed by the minor's parent or legal guardian.
- C. The City shall keep confidential to the maximum extent permitted by applicable laws, the name and other identifying information of persons applying for and receiving Municipal Identification Cards. The City shall cause the applications to be produced in a form that allows applicants to state their privacy preferences. The City shall not retain records of applicants' residential addresses.

2.64.040 Implementation

The Program Administrator or his or her designee is authorized to adopt rules and regulations not inconsistent with this Section, subject to approval as to form and legality by the City Attorney, in order to implement and administer the issuance of Municipal Identification Cards. These regulations shall specifically include a process for waiving the fee set forth in Section 2.64.050, upon proof of indigence.

2.64.050 Fees

A fee shall be charged for each Municipal Identification Card issued. The City Council shall set the maximum amount that may be charged per card by resolution.

2.64.060 Acceptance by City Departments

- A. When requiring members of the public to provide identification or proof of residency in the City, each City department shall accept a Municipal Identification Card as a valid identification and as valid proof of residency in the City, unless such City department has reasonable grounds for determining that the card is counterfeit, altered, or improperly issued to the card holder, or that the individual presenting the card is not the individual to whom it was issued. In addition the Municipal Identification Card, , the City of Richmond Police Department may use other forms of identification and processes as necessary to substantiate the identification of a person.
- B. Other than requiring the City to accept the Card as proof of identification and City residency, this Section is not intended to replace any other existing requirements for issuance of other forms of identification in connection with the administration of City benefits and services. The requirements of this Section do not apply under circumstances where (1) a Federal or State statute or administration regulation or directive, or court decision requires the City to obtain different identification or proof of residence, (2) a Federal or State statute or administrative regulation or directive preempts local regulation of identification or residency requirements, or (3) the City would be unable to comply with a condition imposed by a funding

source, which would cause the City to lose funds from that source. A Municipal Identification Card may not be used in place of the identification required by Richmond Municipal Code Chapters 7.68 (Taxicabs) or 7.102 (Medical Marijuana Collectives).

2.64.070 Card Holders' Responsibilities

A card holder must notify the Program Administrator within 14 calendar days of any change in address within the City of Richmond. Upon receipt of notification, the Program Administrator shall issue a notice of new address to be carried with the Municipal Identification Card.

If a card holder no longer intends to reside within the City of Richmond, or expects to reside outside the City for a period of more than 90 consecutive days, the card holder must relinquish the identification card, by mailing the card to the Program Administrator with an acknowledgement of intent to reside elsewhere.

2.64.080 City Undertaking Limited to Promotion of General Welfare

In undertaking the adoption and enforcement of this ordinance, the City is assuming an undertaking only to promote the general welfare. The City does not assume, nor does it impose on its officers and employees, any obligation for which the City or any of its officers or employees could be found liable in the event of breach of that obligation to any person who claims that such breach proximately caused injury.

2.64.090 Counterfeit and Fraudulent Cards

It is a misdemeanor violation of this Code, as specified in Chapter 1.04, for any person or entity to do any of the following acts:

- A. To knowingly present false information to the City in the course of applying for a Municipal Identification Card;
- B. To alter, copy, or replicate a Municipal Identification Card without the authority of the City; or
- C. To use the Municipal Identification Card issued to another person, with the intent to cause a third person or entity to believe the holder of the card is the person to whom the card was issued.

Section 3 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 4 Third Party Administrator Selection

The Richmond City Council directs the City Manager or his or her designee to issue an expedited RFQ for the development of a Richmond Municipal Identification program no later than 90 days of the passage of this Ordinance, with the caveat that the program be fully cost-covered to the greatest extent possible with no subsidy from the City, even if it means that the City out-sources all aspects of the program to a Third Party Administrator. The City Manager shall make all reasonable efforts to issue the RFQ before the 90 day

deadline. The RFQ shall include, but need not be limited to, the following mandatory requirements and criteria:

- A. That the Municipal Identification Card include a magnetic stripe on the obverse that will allow storage of information for the purposes of:
 - 1. Verifying that the information printed on the face of the card relating to the user's full legal name, date of birth, residential address, photo, Identification number, expiration date, and the user's signature coincides with the information provided at the time of registration.
 - 2. Allowing use of the cards, at the applicant's option, as a standard pre-paid debit card.
 - 3. Allowing use of the card, at the applicant's option, for storage of the user's medical history and information relating to special medical treatment requirements, if the Third Party Administrator can demonstrate to the satisfaction of the City Manager or his or her designee that such information can be stored in a manner that is secure and not-discoverable by persons other than first responders, medical care providers, and other individuals or entities entitled to receive confidential medical information.
- B. That all information about the resident required by the application (including, but not limited to the applicant's full legal name, date of birth, residential address, photo, Identification number, expiration date, and the applicant's signature) will be entered into a secure database maintained by the Third Party administrator that issued the card. All information stored in this database shall be subject to all applicable state and federal laws relating to disclosure, privacy, national security, and financial crimes.
- C. That with respect to the Municipal Identification Cards, the prospective Third Party Administrator will implement Department of Homeland Security standards for Level 1 security features for national and state identification cards.
- D. That the prospective Third Party Administrator will train the Richmond Police Department and any other City or County department with a need to verify the authenticity of the Municipal Identification Cards, regarding all security features of the card, so that cards may be authenticated easily, and department members may access the database information regarding the user.
- E. That the prospective Third Party Administrator, and any card issuers engaged by the Third Party Administrator, demonstrate the ability to comply at a minimum with the requirements of Section 326 of the USA PATRIOT Act (Pub. L. 107-56), and the federal regulations promulgated pursuant to that section, and pursuant to the Bank Protection Act of 1968 (12 Code Fed. Regs. 326).
- ~~F. That residents shall pay no more than \$15 per card for adults, and no more than \$10 per card for children. The prospective Third Party Administrator shall propose a method for permitting the waiver of these costs upon proof of indigency.~~
- FG. That in the event a user activates the pre-paid debit card function, the maximum allowable transaction fees shall be as follows:

Account maintenance (monthly)	\$0.99
Domestic ATM Withdrawal	\$1.50
ATM Balance Inquiry	\$0.60
ATM Denial Fee	\$0.60

Point of Sale (POS) Purchase Denial or Return	\$0.50
Inactive Account Fee Monthly [<i>for card not used for 4 months</i>]	\$1.00
Funds Transfer To Replacement Card	\$1.00
Domestic card-to-card Transfer	\$2.00
International Signature card ATM withdrawal	\$3.50
International Remittance	\$5.00
Load at Merchant	\$2.95
Mobile Maintenance (only if chosen)	\$1.00
Statement issuance via U.S. mail or fax (only if requested)	\$4.95

In no event shall any fee charged by the prospective Third Party Administrator exceed \$5.00. Any increase of these rates must be approved by the City Council. The City Council may amend these rates if the RFQ yields no acceptable bids.

- GH. That the prospective Third Party Administrator shall agree to share revenue with merchants and other agencies accepted to perform cash loading into the card. The commission on loads shall be at least \$1.00 per load.
- HI. That the prospective Third Party Administrator demonstrate that the financial institutions that will provide the debit-card services described herein is financially stable and a safe and secure entity for the placement of funds, and that the debit card users will have access to local banks and ATMs.
- I. That the prospective Third Party Administrator shall demonstrate how it will train users in the use of the pre-paid debit card function. The trainings should be adapted to the particular concerns of residents. Police officers, City administrators, and merchants.
- J. That the prospective Third Party Administrator shall demonstrate how it will provide access to cardholder information in a way that allows Richmond Police Dispatchers to substantiate the identity of the cardholder when requested by police officers in the field.

Section 5 Effective Date

This ordinance shall not become effective, and the Municipal Identification Card program described herein shall not be implemented, unless and until the Finance Director – after selection of a Third Party Administrator and thorough review of the Administrator’s implementation plan – certifies to the City Council that the implementation and administration of the Program will be operated at no net cost to the City or any of its divisions, subdivisions, or agencies. This ordinance shall become effective immediately upon Council acceptance of the Finance Director’s findings. The City Council may approve the contract with the Third Party Administrator at the same meeting at which the Finance Director certifies that the program will be cost-neutral for the City.

First read at a regular meeting of the City Council of the City of Richmond held on July 5, 2011, and finally passed and adopted at a joint meeting thereof held July 19, 2011, by the following vote:

AYES: Councilmembers Bates, Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

DIANE HOLMES
Clerk of the City of Richmond
(SEAL)

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. 16-11 N.S., finally passed and adopted by the City Council of the City of Richmond at a joint meeting held on July 19, 2011.