

ORDINANCE NO. ___ N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND
AMENDING CHAPTER 2.30 OF THE RICHMOND MUNICIPAL CODE TO
CLARIFY LIMITATIONS ON THE USE OF CITY PROPERTY, PERSONNEL,
AND RESOURCES FOR CIVIL IMMIGRATION ENFORCEMENT AND
DEVELOP IMPLEMENTATION PROCEDURES, INCLUDING
COMMUNICATIONS PLAN, AND REPORTING REQUIREMENTS**

The City Council for the City Richmond do ordain as follows:

SECTION 1. AUTHORITY. This Ordinance is authorized by the City's authority under California Constitution, article XI, sections 5 (charter cities) and 7 (police power), and in conformity with California Senate Bill No. 54, codified in California Government Code Sections 7282 – 7284.10.

SECTION 2. MUNICIPAL CODE AMENDMENT. Chapter 2.30 of Article II of the Richmond Municipal Code is hereby amended to read as follows:

Section 2.30.010 — City Council Findings and Declarations

- (a) The City of Richmond is home to people of diverse racial, ethnic, and national backgrounds, including a large immigrant population.
- (b) Immigrants are valuable and essential members of the City of Richmond community.
- (c) A relationship of trust between the City of Richmond's immigrant community and the City of Richmond, its departments, programs, and personnel is central to the public safety of Richmond residents.
- (d) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians, including Richmond residents.

- (e) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.
- (f) There are legal concerns with leveraging the City of Richmond's resources for federal immigration endeavors, including but not limited to the prospect of Richmond residents being detained in violation of the Fourth Amendment of the United States Constitution or targeted on the basis of race or ethnicity in violation of the Equal Protection Clause.
- (g) California law, including the California Values Act (Government Code § 7284, et seq.), limits local involvement in civil immigration enforcement.
- (h) The City of Richmond has the authority to regulate the use of its own property, personnel, and municipal resources.
- (i) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of Richmond residents, to regulate the use of City resources and property, and to direct the City's limited resources to matters of greatest concern, not to impede or interfere with lawful federal authority. Nothing in this chapter shall be construed as a mandatory duty giving rise to liability against the City.

Section 2.30.020 – **Definitions**

For purposes of this chapter, the following words and phrases are defined as follows:

- (a) **“Administrative warrant”** means a document issued by the federal agency charged with the enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for immigration purposes.
- (b) **“Eligible for release from custody”** means that the individual may be released from custody because one of the following conditions has occurred:
 - (1) All criminal charges against the individual have been dropped or dismissed.
 - (2) The individual has been acquitted of all criminal charges filed against him or her.
 - (3) The individual has served all the time required for his or her sentence.
 - (4) The individual has posted a bond or has been released on his or her own recognizance.

- (5) The individual has been referred to pre-trial diversion services.
- (6) The individual is otherwise eligible for release under state or local law.
- (c) **“Citizenship or Immigration Status”** shall mean all information or classification regarding citizenship of the United States or any other country, place of birth, the authority to reside in or otherwise be present in the United States, including visa status, and the time or manner of a person's entry into the United States.
- (d) **“City personnel”** means any person employed by the City of Richmond, whether or not compensated, but does not include volunteers or independent contractors.
- (e) **“City property”** means any real or personal property owned, leased, operated, or controlled by the City of Richmond, including but not limited to buildings, offices, workshops, storage yards, corporation yards, parks, parking lots, garages, vehicles, fueling stations, vacant lots, and equipment.
- (f) **“Civil immigration detainer”** means a non-mandatory request issued by an authorized federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations, to a local law enforcement official to maintain custody of an individual for a period not to exceed 48 hours and advise the authorized federal immigration officer prior to the release of that individual.
- (g) **“Convicted”** means the state of having been proved guilty in a judicial proceeding, unless the convictions have been expunged or vacated pursuant to applicable law. The date that an individual is Convicted starts from the date of release.
- (h) **“Firearm”** means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion as defined in Penal Code Section 16520.
- (i) **“Immigration Agent”** means any federal, state, or local officer, employee, or person performing immigration enforcement functions including, but not limited to, agents employed by U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection.
- (j) **“Immigration Enforcement”** means any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law against natural persons, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a natural person’s presence in, entry, or reentry to, or employment in, the United States.

- (k) **“Law enforcement official”** means any City Department or officer or employee of a City Department, authorized to enforce criminal statutes, regulations, or local ordinances; operate jails or maintain custody of individuals in jails; and operate juvenile detention facilities or maintain custody of individuals in juvenile detention facilities.
- (l) **“Non-public areas of City property”** means City property that is not generally open and accessible to the public, including but not limited to offices, internal corridors, meeting spaces, workshops, inside and outside storage areas, corporation yards, and fueling stations.
- (m) **“Notification request”** means a non-mandatory request issued by an authorized federal immigration officer to a local law enforcement official asking for notification to the authorized immigration officer of an individual's release from local custody prior to the release of an individual from local custody. Notification requests may also include informal requests for release information by the Federal agency charged with enforcement of the Federal immigration law.
- (n) **“Personal information”** means any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.
- (o) **“Staging Area”** means an area that is used to assemble, mobilize, and deploy vehicles, equipment, or materials, and related personnel, in a manner that is outside of regular business purposes or hours, or that disrupts or impedes its use for City purposes.

Section 2.30.030 – **Limitations on the Use of City Resources.**

Unless required by federal or state law, no City resources, including, but not limited to, City personnel and City property, shall be utilized to assist in the enforcement of federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information as defined in Section 2.030.20, unless such assistance is required by federal or state statute, regulation, or court decision. The prohibition set forth in this Section shall include, but shall not be limited to:

- (a) Inquiring into or collecting information about an individual's Citizenship or Immigration Status, unless such information is necessary to provide a City service, including the provision of immigration and naturalization assistance, for election-related purposes or appointment to a City office or commission, or as required for purposes of City employment or the disbursement of City funds.
- (b) Assisting or cooperating, in one's official capacity, with any investigation, detention or arrest procedures, public or clandestine, conducted by the federal agency charged with enforcement of federal immigration law and relating to alleged violations of the civil provisions of the federal immigration law, except as

permitted under this Chapter 2.30 and applicable state or federal law.

- (c) Assisting or cooperating, in one's official capacity, with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City, state, or federal criminal laws.
- (d) Requesting information about, or disseminating information, in one's official capacity, regarding the release status of any individual, except as permitted under this Chapter 2.30, or conditioning the provision of services or benefits by the City upon immigration status, except as required by federal or state statute or regulation, City public assistance criteria, or applicable court decision.
- (e) Providing any Immigration Agent access to any non-public areas of City property for the purpose of Immigration Enforcement.
- (f) Allowing City property to be used as a staging area, processing location, or operational base for Immigration Enforcement.
- (g) Providing City personnel, funds, equipment storage, communication systems, data systems, office space, parking access, or other resources for Immigration Enforcement.

Section 2.30.040 – **Limitations on Law Enforcement Officials**

- (a) The City of Richmond's Police Department, consistent with California Government Code section 7284.6(a), shall not:
 - (1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:
 - (A) Inquiring into an individual's immigration status.
 - (B) Detaining an individual on the basis of a hold request.
 - (C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public or is in response to a notification request from immigration agents in accordance with California Government Code Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.
 - (D) Making or intentionally participating in arrests based on civil

immigration warrants.

(E) Assisting immigration agents in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(F) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

- (2) Place Richmond police officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All Richmond police officers remain subject to California law governing conduct of peace officers and the policies adopted by the City of Richmond.
- (3) Use immigration agents as interpreters for law enforcement matters relating to individuals in agency or department custody.
- (4) Transfer an individual to immigration agents unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with California Government Code Section 7282.5.
- (5) Provide office space exclusively dedicated for immigration agents for use within a Police Department facility.
- (6) Contract with the federal government for use of Police Department facilities to house individuals as federal detainees, except pursuant to Chapter 17.8 of the California Government Code (commencing with Section 7310).

(b) Notwithstanding the limitations in subsection (a), this section is not intended to prevent personnel or officers of the City of Richmond's Police Department from taking actions consistent with or permitted by federal and state law, including, but not limited to, those actions enumerated within California Government Code Sections 7282.5 and 7284.6(b)-(e), as amended.

Section 2.30.050 – Confidentiality and Protection of City Data.

Except as required by 8 U.S.C. § 1373 or other applicable federal or state law, no City personnel or law enforcement official shall provide access to any City data or information that can be used to determine or trace a person's Citizenship or Immigration Status to any Immigration Agent. In furtherance of this restriction, as of the effective date of this ordinance, City personnel shall not provide City data or information that can be used to determine or trace a person's Citizenship or Immigration Status to any City contractor unless the contractor first agrees in writing to prohibit the contractor's employees and subcontractors from providing that data or information to any

Immigration Agent, to the extent permitted by law. All City employees shall treat information that can be used to distinguish or trace a person's Citizenship or Immigration Status, either on its own or when combined with other information, as confidential information, to the extent permitted by law.

Section 2.30.060 – Judicial Warrants and Presiding Law.

Nothing in this chapter shall prohibit or otherwise restrict the City or City personnel from complying with a valid warrant issued by a federal or state judge, or other order evidencing a judicial determination of probable cause, nor shall this chapter prohibit the City or its personnel from complying with state or federal law.

Section 2.30.070 – Communications

The City Manager, in consultation with the City Attorney and with input from the public, shall develop a communications plan to provide information to the public in the event of verified Immigration Enforcement within the City of Richmond. This communications plan shall be reviewed and updated as needed. Nothing in this section shall be construed as a mandatory duty.

Section 2.30.080 – Implementation and Reporting

- (a) The City Manager or his or her designee shall develop administrative procedures, which include the communications plan, to implement this chapter. These administrative procedures shall be reviewed and updated as needed.
- (b) The City Manager or his or her designee shall ensure all City personnel receive training on the provisions of this chapter, including any administrative procedures.
- (c) The City Manager or his or her designee shall develop signage for City property indicating City property cannot be used for non-City purposes, including Immigration Enforcement, and install such signage on City property as needed.
- (d) Every city department shall designate non-public areas of City property within its control with signage and review and update such designations as needed.
- (e) City personnel shall promptly report the presence of any Immigration Agent or any Immigration Enforcement on City property to their department head and the City Attorney's Office.
- (f) City personnel shall promptly report any attempted use of City property for Immigration Enforcement to their department head and the City Attorney's Office.
- (g) The City Manager or his or her designee shall provide an annual informational

report to the City Council by May 1, beginning May 1, 2027, regarding the implementation of this chapter.

(h) Nothing in this section shall be construed as a mandatory duty.

SECTION 3. CEQA FINDINGS. The City Council finds that adoption of this Ordinance is exempt from CEQA because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because it has no potential to alter the physical environment; (ii) and pursuant to CEQA Guidelines section 15061(b)(3), the so-called “common sense” exemption, for this same reason.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECTIVE DATE. This Ordinance shall be in full force and effect 30 days after its passage and adoption.

(This section to be completed by Clerk’s Office)

First introduced at a regular meeting of the City Council of the City of Richmond held on _____ and finally passed and adopted at a regular meeting held on _____ by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Clerk of the City of Richmond

(SEAL)

Approved:

Mayor

Approved as to form:

City Attorney