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Approved as to Form and Legality

City Attorney
Revised June 2, 2009

OAKLAND CITY COUNCIL

ORDINANCE NO. 12937 C.M.S.

INTRODUCED BY VICE-MAYOR IGNACIO DE LA FUENTE &
COUNCILMEMBER JEAN QUAN

ORDINANCE AMENDING CHAPTER 2.34, TITLE 2, OF THE OAKLAND MUNICIPAL CODE AUTHORIZING A MUNICIPAL IDENTIFICATION CARD PROGRAM TO PROVIDE FOR THE ISSUANCE OF MUNICIPAL IDENTIFICATION CARDS TO RESIDENTS OF THE CITY OF OAKLAND FOR THE PURPOSES OF IMPROVING PUBLIC SAFETY, INCREASING CIVIC PARTICIPATION, AND SUPPORTING LOCAL COMMERCE

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

WHEREAS, the Municipal ID card will unify the Oakland 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 Oakland Municipal ID Card will be unique to the City of Oakland 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 Oakland Municipal ID Card and developing substantial partnerships for its dissemination—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 of its residents; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND 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 a part of this Ordinance.

Section 2 That the following provisions are hereby added to Chapter 2.34 of Title 2 -- Administration and Personnel, of the Oakland Municipal Code, to read as follows:

2.34.020. Municipal Identification Cards - Definitions

For purposes of Sections 2.34.020 through 2.34.090, the following definitions shall apply.

"City" shall mean the City of Oakland, or any department, board, commission or agency thereof.

"Municipal Identification Card" shall mean an identification card issued by the City of Oakland 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 Clerk or such other City Department or Agency that the City Administrator may designate.

"Resident" shall mean a person who can demonstrate that he or she has been present in the City of Oakland for at least fifteen continuous days and who presents "proof of residency" as specified in Section 2.34.040(A)(2).

2.34.030 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 2.34.040 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 Oakland.

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 Oakland, for the purpose of accessing City programs, services and activities, and providing identification to law enforcement.

2.34.040 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 the applicable fee, the Program Administrator shall issue a Card to the applicant.

1. Proof of Identity. In order 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 U.S. driver's license; a U.S. state identification card; a U.S. Permanent Resident Card (commonly known as a "Green Card"); a consular identification ("CID") card; or a photo identification card issued by another country to its citizens or nationals that meets the requirements of Section 2.34.010(A). Notwithstanding the above, if the applicant is thirteen years of age or younger, he or she, as an alternative, 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 aged thirteen or under, he or she may in the alternative 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 Residency.

a. In order 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 issued by a homeless shelter that receives City funding confirming at least fifteen days residency within the last thirty days; written verification issued by a hospital health clinic, or social services agency that receives City funding, confirming at least fifteen days residency within the last thirty days; a local property tax statement or mortgage payment receipt dated within the last thirty days; a bank account statement dated within the last thirty days; proof of a minor currently enrolled in a City school; an employment pay stub dated within the last thirty days; a written ruling, order or notice from the Oakland Rent Adjustment Board 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, an 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 himself or herself would be eligible for a Municipal Identification Card.

3. The Program Administrator may by regulation provide for acceptance of additional forms 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 governmental 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 such 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.

2.34.050 Implementation

The Program Administrator 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. The City shall require applicants to declare the information provided in their applications under penalty of perjury.

2.34.060 Fees

The City shall charge a fee for each application submitted. Such fees shall not exceed the costs reasonably associated with the production of the Cards and administration of the Program. The Program Administrator shall, by regulation, provide for reduced application fees, up to and including complete waiver of the fee, for low-income applicants who present proof of income status in a form to be determined by the Program Administrator. The Fee will be set and published in the Master Fee Schedule.

2.34.070 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 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.

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, administrative 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.

2.34.080 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. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

2.34.090 Counterfeit and Fraudulent Cards

It is a misdemeanor violation of this Code, as specified in Chapter 1.28, 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.
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. Non-Severability

The City Council intends that all the provisions of this ordinance function as an interdependent whole. If a court of competent jurisdiction rules that the City may not implement or enforce any provision of this ordinance, then all City officers and employees shall henceforth cease implementing and enforcing all provisions of this ordinance.

Section 4. This Ordinance shall become effective upon Council voting for an implementation plan.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 16 2009, 200_

PASSED BY THE FOLLOWING VOTE:

AYES- DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, AND PRESIDENT BRUNNER - 7

NOES- BROOKS – 1

ABSENT- 0

ABSTENTION- 0

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: 6/22/09

Introduction Date: JUN 2 2009

ORDINANCE AMENDING CHAPTER 2.34.020, TITLE 2, OF THE OAKLAND MUNICIPAL CODE AUTHORIZING A MUNICIPAL IDENTIFICATION CARD PROGRAM TO PROVIDE FOR THE ISSUANCE OF MUNICPAL IDENTIFICATION CARDS TO RESIDENTS OF THE CITY OF OAKLAND FOR THE PURPOSES OF IMPROVING PUBLIC SAFETY, INCREASING CIVIC PARTICIPATION, AND SUPPORTING LOCAL COMMERCE

NOTICE AND DIGEST

This Ordinance amends Oakland Municipal Code Chapter 2.34, Title 2, and establishes a Municipal Identification Card, issued by the City of Oakland to City residents. This Ordinance will not take effect until Council votes for an implementation plan for the Program.