

**URGENCY ORDINANCE NO. 03-20 N.S.**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADOPTING SECTION 2.16.050 (CITY COUNCIL ELECTION DISTRICTS AND SEQUENCING) AND SECTION 2.16.060 (CITY COUNCIL RESIDENCY) OF CHAPTER 2.16 (ELECTIONS) OF ARTICLE II (ADMINISTRATION AND CITY GOVERNMENT) OF THE RICHMOND MUNICIPAL CODE TO TRANSITION FROM AT-LARGE TO BY-DISTRICT ELECTIONS OF CITY COUNCILMEMBERS**

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**Section 1. Findings**

WHEREAS, under the City Charter, members of the City Council are elected at large; and

WHEREAS, on September 11, 2019, the City received a certified letter from Attorney Scott Rafferty asserting the City's at-large councilmember electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the City declines to voluntarily change to a district-based electoral system; and

WHEREAS, the City denies that its at-large electoral system violates the CVRA, or any other law, and continues to support the full participation of all voters in its elections; and

WHEREAS, the City Council concludes the public interest is served by transitioning to by-district elections to avoid the cost of disputing the matter; and

WHEREAS, the City Council adopted Resolution No. 99-19 on October 22, 2019, stating its intention to transition to by-district elections pursuant to Elections Code section 10010 and section 3 of article III of the Richmond City Charter; and

WHEREAS, any provision of the City Charter conflicting with the CVRA is preempted under *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, 802, which held the dilution of votes of a protected class and the transition to district-based elections are matters of statewide concern; and

WHEREAS, Resolution No. 99-19 triggered Elections Code section 10010's 90-day safe harbor provision, which shields the City from litigation under the California Voting Rights Act while it holds public hearings and considers proposed maps regarding its intention to transition to district-based elections; and

WHEREAS, the City held public hearings on November 5, 2019, November 19, 2019, December 3, 2019, December 17, 2019, and January 14, 2020 as required under Elections Code section 10010, subdivision (a)(2), to receive input regarding communities of interest and the composition of districts; and

WHEREAS, the City held five supplementary community workshops on November 14, 2019, November 18, 2019, December 5, 2019, December 10, 2019, and January 6, 2020 to receive input regarding communities of interest and the composition of districts; and

WHEREAS, the City created a separate page on its website to inform voters of the process to transition to by-district elections, and posted a description of the process, the schedule of hearings and meetings, frequently asked questions, draft maps, notices, correspondence, presentations, resolutions, and staff reports; and

WHEREAS, the City contracted with National Demographics Corporation ("NDC") to draw district maps and analyze submissions by the public and contracted with Compass Demographics to provide a peer review of NDC's work; and

WHEREAS, the City provided a link on its website to data kits which allow members of the public to propose maps for NDC's consideration; and

WHEREAS, the City received 17 proposed maps from members of the public, and NDC determined 5 were duplicates; and

WHEREAS, NDC proposed three additional maps; and

WHEREAS, the City timely published 15 draft maps on November 26, 2019; and

WHEREAS, after its third public hearing on December 3, 2019, the City received three more maps from the public, and NDC proposed one additional map; and

WHEREAS, the City timely published 19 revised draft maps on December 10, 2019; and

WHEREAS, on December 17, 2019, the City Council identified four maps, plus a fifth to be submitted by Compass Demographics, as those to be the focus of further community dialog and directed further efforts to seek community input before the Council's January 14, 2020 meeting; and

WHEREAS, the adoption of districts will not affect the term of any sitting Councilmember, each of whom will serve the term to which he was elected.

NOW THEREFORE, the Council of the City of Richmond does ordain as follows:

### **Section 2. Urgency Findings**

Under Government Code section 36937, subdivision (b), the City Council finds as follows:

- (a) Multiple community outreach efforts were necessary to inform and hear from the diverse members of the City's Latinx and Asian communities;
- (b) The five public hearings and multiple community outreach efforts took place over the holiday season, including Christmas, New Year's Eve and El Dia de Los Reyes Magos (Epiphany);
- (c) The City and prospective plaintiffs were unable to reach an agreement to extend the safe harbor period by an additional 90 days as permitted by Elections Code section 10010, subdivision (e)(3)(C); and
- (d) In the interest of preserving public peace and welfare, this Urgency Ordinance must be adopted on one reading and made immediately effective to allow the City to adopt this Ordinance within Elections Code section Elections Code section 10010's 90-day safe harbor period while still allowing maximum opportunity for meaningful public input on the subject of this Ordinance.

### **Section 3. Amendment of Municipal Code**

Chapter 2.16 (Elections) of Article II (Administration and City Government) of the Richmond Municipal Code is hereby amended to add a new Section 2.16.050 as follows:

#### **2.16.050 City Council Election Districts; Sequencing**

- (a) **District Boundaries.** Commencing with the City's regular election in 2020, the City Council will be elected from the six districts described on the map attached hereto as Exhibit A and incorporated by this reference. The districts identified in Exhibit A shall be subsequently reapportioned as required by law.
- (b) **Election Sequencing.** Commencing with the City's regular election in 2020 and every four years thereafter, voters in Districts 1, 5, and 6 will elect members of the City Council for four-year terms. Commencing with the regular election in 2022 and every four years thereafter, the voters in Districts 2, 3, and 4 will elect members of the City Council for four-year terms.

#### **Section 4. Amendment of Municipal Code**

Chapter 2.16 (Elections) of Article II (Administration and City Government) of the Richmond Municipal Code is hereby amended to add a new Section 2.16.060 as follows:

##### **2.16.060 Residency; Vacancies**

###### **(a) City Council.**

- 1) Commencing with the City's regular election in 2020, any candidate for the City Council must reside in, and be a registered voter of, the district which he or she seeks to represent and shall maintain status as a registered voter there during his or her service on the Council. Unless applicable law otherwise requires, to be eligible for office, a candidate must be such a resident and registered voter of the district at the time nomination papers are issued to the candidate, as provided in Elections Code section 10227.
- 2) If a City Council member elected by district ceases to be a registered voter in that district, that fact creates a vacancy unless he or she obtains another domicile within the district within 30 days after cessation of residency. Any vacancy arising for that reason, or otherwise under Government Code section 1770 or other applicable law, must be filled pursuant to section 2.16.090 of this Code and section 10 of article III of the City Charter by the remaining members of the City Council appointing a qualified resident and registered voter of the district to which the vacancy pertains.

- (b) **Mayor.** Qualifications for and vacancies in the office of Mayor are governed by article III, sections 3 and 5 of the City Charter.

#### **Section 5. Recordation; Publication**

Upon adoption of this Urgency Ordinance by no less than four-fifths vote of the City Council, the Mayor shall sign and the City Clerk shall attest to its passage. The City Clerk shall file a copy of the Urgency Ordinance with the Contra Costa County Clerk-Recorder's office within 30 days of its passage and adoption and shall give notice of it as required by section 2.08.010 of the Municipal Code and record it in the Ordinance Book as required by section 2.08.020 of that Code.

#### **Section 6. Severability**

If any section, subsection, sentence, clause, or phrase of this Urgency Ordinance is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision will not affect the validity of the remaining portions of the Urgency Ordinance. The City Council hereby declares that it would have adopted the Urgency Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any other portion of the Urgency Ordinance would be subsequently declared invalid.

#### **Section 7. Effective Date**

The Urgency Ordinance shall be effective immediately upon passage and adoption.

Passed and adopted at a regular meeting of the City Council held on January 14, 2020, by the following vote:

AYES: Councilmembers Bates, Martinez, Myrick, Willis, Vice Mayor Choi, and Mayor Butt.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Johnson III.

**PAMELA CHRISTIAN**  
CLERK OF THE CITY OF RICHMOND  
(SEAL)

Approved:  
**TOM BUTT**  
Mayor

Approved as to form:  
**BRUCE GOODMILLER**  
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. 03-20 N.S.** passed and adopted by the City Council of the City of Richmond at a regular meeting held on January 14, 2020.

  
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Pamela Christian, City Clerk of the City of Richmond