



MODEL SANCTUARY ORDINANCE

Findings

The City Council/Board of Supervisors finds and declares the following:

- a) Immigrants are valuable and essential members of the City/County.
- b) A relationship of trust between the City/County's immigrant community and local law enforcement is central to the public safety of City/County.
- c) This trust is threatened when local law enforcement agencies are entangled with federal immigration enforcement programs, with the result that-immigrant community members fear approaching police when they are victims of, and witnesses to, crimes; seeking basic health services; and attending school, to the detriment of the public safety and well-being of all residents in the City/County.
- d) Entangling local law enforcement with federal immigration enforcement programs diverts already limited resources and blurs lines of accountability between local and federal government;
- e) Local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that City/County residents could be detained in violation of the Fourth Amendment, targeted on the basis of race or ethnicity in violation of the Equal Protection Clause, or denied access to education based on immigration status.
- f) This act seeks to ensure effective policing, protect the safety, well-being, and constitutional rights of the residents of the City/County and to direct the City/County's limited resources to matters of greatest concern to the City/County.

Definitions

For purposes of this chapter, the following terms have the following meanings:

- a) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement or United States Customs and Border Protection, or any division thereof, or any other officer, employee, or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with immigration enforcement.
- b) "Local law enforcement agency" means any agency of a city, county, city and county, special district, or other political subdivision of the state that is authorized to enforce criminal statutes, regulations, or local ordinances; or to operate jails or to maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

- c) “Local agency” means any county or city department, agency, division, commission, council, board or other body in City/County that is authorized to provide services to the residents of City/
- d) County, including by not limited to health facilities, courthouses, and public schools.
- e) “Civil immigration warrant” means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database
- f) “Hold request" means a request from a federal immigration authority asking a local law enforcement agency to maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to federal immigration authorities and includes, but is not limited to, Department of Homeland Security (DHS) Form I-247.
- g) "Notification request" means a request from a federal immigration authority to a local law enforcement agency asking to be informed of the release date and time of an individual in its custody and includes, but is not limited to, DHS Form I-247.
- h) "Transfer request" means a request from a federal immigration authority to a local law enforcement agency asking that the local law enforcement agency facilitate the transfer of an individual in its custody to the federal immigration authority, and includes, but is not limited to, DHS Form I-247.
- i) “Judicial warrant” means a warrant based on probable cause and issued by a federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant.
- j) “Health facility” includes hospitals, medical offices, clinics, and substance abuse treatment facilities.
- k) “Immigration enforcement” includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, 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 person’s presence in, entry, or reentry to, or employment in, the United States, including, but not limited to, violations of Section 1253, 1324c, 1325, or 1326 of Title 8 of the United States Code.
- l) “Public Schools” means all public elementary and secondary schools.
- m) “School police and security departments” includes police and security departments of public schools.

Section 1: Prohibiting use of local resources and personnel from engaging in immigration enforcement

(a) Local law enforcement agencies and school police and security departments shall not do any of the following:

- 1. Use agency or department moneys, facilities, property, equipment, or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including, but not limited to, any of the following:

- a. Inquiring into or collecting information about an individual's immigration status.
 - b. Detaining an individual on the basis of a hold request.
 - c. Responding notification-or transfer requests.
 - d. Providing, or responding to requests for personal information about an individual, including, but not limited to, information about the person's release date, home address, or work address for immigration enforcement purposes.
 - e. Making arrests based on civil immigration warrants.
 - f. Giving federal immigration authorities access to interview individuals in agency or department custody for immigration enforcement purposes.
 - g. Assisting federal immigration authorities in the activities described in 1357(a)(3) of Title 8 of the United States Code.
 - h. 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. Use agency or department moneys, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, or national or ethnic origin.
 3. Make agency or department databases or the information contained therein available to anyone or any entity for the purpose of immigration enforcement or investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, immigration status, or national or ethnic origin. Any agreements in existence on the date that this chapter becomes operative that make any agency or department database available for purposes prohibited by this paragraph are terminated on that date.
 4. Place local law enforcement officers under the supervision of federal agencies or employ local law enforcement officers deputized as special federal officers or special federal deputies.

(b) Notwithstanding any other law, in no event shall state or local law enforcement agencies or school police or security departments transfer an individual to federal immigration authorities for purposes of immigration enforcement or detain an individual at the request of federal immigration authorities for purposes of immigration enforcement absent a judicial warrant. This subdivision does not limit the scope of subdivision (a).

Section 2: Ensuring Equal Access to Services

(a) No agency shall condition the provision of City/County benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.

(b) In order to ensure that eligible individuals are not deterred from seeking services or engaging with state agencies, all local agencies shall review their confidentiality policies and identify any changes necessary to ensure that information collected from individuals is limited to that necessary to perform agency duties and is not used or disclosed for any other purpose. Any necessary changes to those policies shall be made within 60 days of the adoption of this ordinance consistent with agency or department procedures.

(c) All applications, questionnaires, and interview forms used in relation to City/County benefits, opportunities, or services shall be promptly reviewed by the local agencies and any questions regarding citizenship or immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted within 60 days of the passage of this ordinance.

(d) Local agencies shall prohibit federal immigration authorities from operating on or gaining physical access to any lands or buildings owned, leased, or controlled by the City/County, by using the following procedure:

1. Local agencies shall deny any request or attempt by any federal immigration authorities to access local agency lands or buildings, or obtain information about individuals employed or served by the local agency.
2. Local agencies shall refer federal immigration authorities to the City Attorney's Office/County Counsel. The City Attorney's Office/County Counsel shall only advise local agencies to provide access if federal immigration authorities present a warrant signed by a federal or state judge specifying the persons to be arrested and/or places to be searched. Access shall be strictly limited to the terms of the warrant signed by the federal or state judge.

(e) All local agencies shall display prominently information on the rights of immigrants to access their services.

(f) Where presentation of a state driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a state driver's license or identification card except that this subsection shall not apply to the completion of the federally mandated I-9 forms.

Severability

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.