

ORDINANCE NO.

BOARD OF SUPERVISORS, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

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ORDINANCE ADOPTING CHAPTER [x] OF THE CONTRA COSTA COUNTY ORDINANCE CODE RESTRICTING THE USE OF COUNTY RESOURCES TO ASSIST OR COOPERATE WITH IMMIGRATION AUTHORITIES

Section 1. Findings.

- (a) The County of Contra Costa 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 County of Contra Costa community.
- (c) A relationship of trust between the County of Contra Costa's immigrant community and the County of Contra Costa, its departments, programs, and personnel is central to the public safety of Contra Costa 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 Contra Costa 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 County of Contra Costa's resources for federal immigration endeavors, including but not limited to the prospect of Contra Costa residents being denied Due Process, 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) This chapter seeks to ensure effective policies to protect the safety, well-being, and constitutional rights of Contra Costa residents, and to direct the County's limited resources to matters of greatest concern.

Section 2. Definitions.

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

- (a) **"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.

- (b) **“Federal or state law”** means federal or state statutes, regulations, and court decisions that have not been found unconstitutional or otherwise invalid.
- (c) **“Immigration authority”** means any federal, state, or local officer, employee, or person performing immigration enforcement functions.
- (d) **“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.

Section 3. Prohibition on the Use of County Funds or Resources.

Unless required by federal or state law, regulation, or court decision, no County funds or resources, including, but not limited to, County personnel and County property, shall be utilized to:

- (a) Inquire into or collect information about an individual's Citizenship or Immigration Status, unless such information is necessary to provide a County service, including the provision of immigration and naturalization assistance, for election-related purposes or appointment to a County office or commission, or as required for purposes of County employment or the disbursement of County funds.
- (b) Assist or cooperate with requests by the United States Immigration and Customs Enforcement or other Immigration Authorities, to hold, detain, house, transfer, or otherwise facilitate the investigation, detention, or arrest of any person in the custody of the Contra Costa County Sheriff’s Office, Probation Department, or any other County Department, unless pursuant to a judicial warrant (as defined in California Government Code § 7284.4(i)) or otherwise required by federal or state statute, regulation, or court decision;
- (c) Provide access to or use of non-public County property, including but not limited to, County jails, stations, courthouse holding cells, conference rooms, and databases to Immigration Authorities, unless pursuant to a judicial warrant (as defined in California Government Code § 7284.4(i)).
- (d) Make any person in County custody available to Immigration Authorities for an interview for the purpose of Immigration Enforcement.
- (e) Participate in Immigration Enforcement in any operation, joint operation, or joint task force involving Immigration Authorities.

Section 4. County Worker and Facilities Protections.

- (a) Federal immigration enforcement authorities shall not be given access to any non-public areas of County-owned or County-controlled properties unless access is:
 - (i) required by statute, contract, or by a judicially issued warrant or similar court order; or
 - (ii) As part of a pre-scheduled inspection under regulatory authority.
- (b) The County Administrator shall report access to non-public areas of County-owned or controlled properties by any federal immigration enforcement to the Board of Supervisors within three (3) business days by email. The report shall include:
 - (i) Name of agencies provided with access; and
 - (ii) Number of individuals and any identifying information e.g. name or badge number; and
 - (iii) Reason(s) for providing access; and
 - (iv) Location(s) accessed.
- (c) All County employees are prohibited from providing private information about individuals, families, or employees to federal authorities for the purposes of immigration enforcement unless required by state or federal statute, court order or a lawfully issued judicial search warrant or subpoena.
- (d) Existing anti-retaliation laws and policies shall also include protection for County workers taking any actions aligned with this Ordinance. County employees shall be advised of whistleblower worker protections including reporting of conduct that violates this Ordinance.

Section 5. Confidentiality and Protection of County Data.

- (a) Except as required by 8 U.S.C. § 1373 or other applicable federal or state law, no County personnel shall provide access to any County data or information that can be used to determine or trace a person's Citizenship or Immigration Status.
- (b) In furtherance of this restriction, as of the effective date of this ordinance, County personnel shall not provide County data or information that can be used to determine or trace a person's Citizenship or Immigration Status to any County 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.
- (c) All County 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 6. Contractor Compliance.

(a) All County contracts, leases, grant agreements, memoranda of understanding, and any other agreements involving the use of County funds or County-controlled property executed on or after the effective date of this ordinance shall include language requiring the contractor, grantee, or lessee to:

1. Adopt and uphold all protections established in this ordinance;
2. Require compliance with this ordinance by their subcontractors and employees involved in the performance of the contract or operation of the funded facility;
3. Certify compliance with these obligations as a condition of award;
4. Notify the County within three (3) business days of any request for assistance in activities restricted under this Ordinance.

(b) Exceptions to these requirements may be granted only by ordinance of the Board of Supervisors or where compliance is expressly preempted by federal or state law.

Section 7. Reporting Required.

- (a) The Sheriff's Office shall report monthly its contact with federal immigration authorities for the purposes of immigration enforcement on the regular agenda of the Board of Supervisors as a consent item and post the required information on the Sheriff's Office Transparency Portal. This requirement is excused only when the Board is on recess for longer than one (1) month. Reports shall include the following categories of information:
- (i) Number of ICE-form 247 Immigration Notification requests and dates of requests; and
 - (ii) Number of notifications provided in response to requests and dates of notifications; and
 - (iii) Number of people transferred to ICE from Sheriff's custody; and
 - (iv) Number of requests for mutual aid from an agency conducting immigration enforcement action.
- (d) If the Sheriff's Office provides mutual aid to any agency conducting immigration enforcement, the Office shall provide a public incident report via email to the Board of Supervisors within 3 business days of the action that includes:
- (i) Name of all agencies present; and
 - (ii) Whether a judicial warrant was presented by any agency; and
 - (iii) Location of enforcement activity; and
 - (iv) Whether persons were detained as a result of the enforcement activity.
- (b) Reporting under this Section does not fulfill nor replace the Sheriff's obligations under the Truth Act and/or other applicable laws.

Section 8. Severability.

If any subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The County Board of Supervisors hereby declares that it would have adopted this chapter, and each and every subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the chapter would be subsequently declared invalid or unconstitutional.

Section 9. Effective Date.

This Ordinance shall be in full force and effect 30 days after its adoption under XXXXX