

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW DIVISION 15, SECTIONS 52.1501 THROUGH 52.1508, ALL RELATING TO THE DUE PROCESS AND SAFETY ORDINANCE.

Division 15: Due Process and Safety Ordinance

§52.1501 Purpose and Intent

It is the intent of this Division to demonstrate the *City's* commitment, through its actions and training of *City* employees and contractors, to ensure that *City* facilities, programs, and partnerships are not used to facilitate discrimination of any kind, violations of Constitutional rights, or unauthorized enforcement against vulnerable communities. It is further the intent to provide clear direction to *City* employees and contractors to comply with state and local protections safeguarding the rights of all individuals regardless of immigration status, gender identity or expression, reproductive healthcare history, disability status, or political or religious beliefs that recognize the fundamental rights to bodily autonomy, self-determination, privacy, freedom of expression, and equal treatment under the law.

§52.1502 Definitions

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

City means the City of San Diego, a municipal corporation.

City agreement means

City facility means City-property where the City exercises daily control over access to the real property, including offices, maintenance areas, operation yards employee workspaces, restricted zones, construction sites, and administrative facilities.

City-property means real property that the City owns in fee or that is leased and occupied by the City.

Federal law enforcement agency personnel means any employee, contractor, or agent of a department or agency of the United States government who is engaged in law enforcement activity related to protected personal characteristics.

Gender affirming health care has the same meaning as in California Welfare and Institutions Code section 16010.2(b)(3)(A), as may be amended.

Gender affirming mental health care has the same meaning as in California Welfare and Institutions Code section 16010.2(b)(3)(B), as may be amended.

Joint Law Enforcement Task Force has the same meaning as in California Government Code section 7284.4(g), as may be amended.

Law enforcement activity means any action conducted by government personnel or any individual acting under color of law for the purpose of enforcing criminal, civil, immigration, or regulatory laws, including federal laws and laws of other states. This includes surveillance, investigation, detention, questioning, arrest, execution of warrants, collection or sharing of personal data, or facilitation of legal process such as subpoenas or transfer requests.

Non-public area means any space on real property that is not generally accessible to the public.

Out-of-state law enforcement personnel means any law enforcement agent, officer, employee, attorney, investigator, or contractor acting under the authority of another state or its subdivisions who is engaged in law enforcement activity.

Private party acting under color of law enforcement authority means any individual or group not employed by a government agency who:

- (a) Claims, implies, or presents themselves as having legal authority to conduct law enforcement activity;
- (b) Is contracted, deputized, or otherwise authorized by a federal agency or out-of-state jurisdiction to engage in law enforcement activity within California; or
- (c) Engages in surveillance, detention, questioning, or information gathering in a manner that imitates or substitutes for official law enforcement activity.

Protected personal activity means actions that an individual has the right to undertake free from undue governmental interference, discrimination, or criminalization under either federal or state law, including:

- (a) Reproductive healthcare services;
- (b) Gender affirming healthcare;
- (c) Gender affirming mental health care;

(d) Exercising First Amendment rights, including the expressing political or religious opinions;

Protected personal characteristics means an individual's actual or perceived attributes that are safeguarded from discrimination under state law, including:

(e) Immigration or citizenship status;

(f) Disability status;

(g) Gender identity, gender expression, or transgender status;

(h) Sexual orientation;

(i) Race, ethnicity, national origin, or language; or

(j) Marital or familial status;

Reproductive healthcare services has the same meaning as in California Civil Code section 1798.300(e), as may be amended.

§52.1503 — Commitment to Civil Rights and Local Responsibility

The City recognizes the rights of all people to live with dignity, autonomy, and equal protection under the law, regardless of immigration status, disability status, gender identity or expression, reproductive healthcare or gender-affirming healthcare history, or political or religious beliefs.

While the City cannot shield individuals from all risks or guarantee safety in every circumstance, the City affirms its right to act within its legal authority to prevent the use of City resources, personnel, property, or partnerships in ways that

would facilitate discrimination, unlawful detention, or the criminalization of identity.

It is the policy of the City to implement and support the protections established in this Division and in relevant California state law, and to take proactive measures to ensure City institutions remain rights-respecting, transparent, and accountable.

§52.1504 — Reporting Requirements

(a) — The City Manager shall provide an annual written report to the Council containing the following information:

(1) — A summary of the City's participation in joint law enforcement task forces as described in Government Code Section 7284.6(c)(1).

In addition to the reporting required by state law, the report shall include a section for each joint law enforcement task force that includes the following information:

(A) — The number of San Diego Police Department officers officially assigned to the joint law enforcement task force, the purpose of the task force, and a general description of the types of investigations that officers participated in that year.

(B) — The total number of San Diego Police Department personnel hours and total amount of City funds (including salary costs) allocated to the joint law enforcement task force.

(C) — The number of investigative matters or case referrals between San Diego Police Department and the joint law enforcement task force.

(D) — A list of the law enforcement databases or data-sharing systems utilized in the course of the joint law enforcement task force, unless such information is exempt from public disclosure under federal or state law.

(E) — To the extent disclosure of a particular item of information would endanger the safety of a person involved in an investigation, endanger the successful completion of the investigation or a related investigation, or is prohibited under federal or state law, or is exempt from disclosure under federal or state law, the particular item of information shall not be required in the report.

(2) — Any information required to be reported to the California Department of Justice under Penal Code Section 13777(a)(2) and Racial and Identity Profiling Act of 2015 (RIPA).

(3) — A summary of any changes to federal or state law that affect the San Diego Police Department's ability to participate in a joint law enforcement task force or immigration enforcement activities.

(4) — A summary of any known immigration enforcement activities or law enforcement activity by a federal law enforcement agency.

out of state law enforcement personnel, or private party acting under color of law enforcement authority of any individual or entity relating to a protected personal characteristic or protected personal activity within the jurisdiction of the City. This section is not intended to include investigations of criminal activity unrelated to a protected personal characteristic or protected personal activity just because a protected personal characteristic is or protected personal activity is part of a suspect description or may be relevant to the investigation of the underlying crime.

(5) — If the City provided access during the reporting period to a person to any federal law enforcement agency, out of state law enforcement personnel, or private party acting under color of law enforcement authority under California Government Code section 7283.1, a summary of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act Forum held by the City under California Government Code section 7283.1(d), including the place and time that the forum was held, and a general description of the information that was presented by the City.

(b) — If the San Diego Police Department responds to a call for service during an immigration enforcement action by a federal agency, the Chief of Police shall issue a publicly available incident report within three business days of the response. The report shall include:

(1) — The names of all agencies present;

(2) — Whether a judicial warrant was presented by any agency;

(3) — Any available identifying information (badge numbers, agency designations, etc.) of the federal personnel involved.

(c) — If the San Diego Police Department responds to a call or cooperates with federal law enforcement agency personnel or out-of-state law enforcement personnel in response to an imminent threat to life or public safety, the Chief of Police shall report such cooperation in writing to the Council within three business days.

§52.1505 — Guidelines for Upholding Civil Rights in City Operations

Unless otherwise required by law, the City shall not:

(a) — Transmit or share data related to any protected personal characteristic or protected personal activity.

(b) — Use City monies, personnel, or resources to carry out law enforcement activities or to assist law enforcement activity by federal law enforcement agency personnel, out-of-state law enforcement personnel, or private party acting under color of law enforcement authority where the alleged criminal activity is a protected personal characteristics or a protected personal activity. This section is not intended to preclude investigations of criminal activity unrelated to a protected personal characteristic or protected personal activity just because a protected personal characteristic or protected personal activity is part of a suspect description

or a may be relevant to the investigation of the underlying crime in some way.

(c) — Participate in a joint operation, task force, or patrol that involves, in whole or in part, an immigration enforcement action or other law enforcement activity that specifically investigates protected personal characteristics or protected personal activities as criminal activity.

(d) — This section does not:

(1) — prohibit the City's participation in joint law enforcement task forces, provided that a task force is not related to immigration enforcement, targeting protected personal characteristics as criminal behavior, or targeting protected personal activities as criminal behavior; or

(2) — prohibit cooperation with federal law enforcement agency personnel or out of state law enforcement personnel in response to an imminent threat to life or public safety. The City's cooperation shall be narrowly tailored to respond to the imminent threat to life or public safety. The City's cooperation under this subsection shall be reported in writing to the Council within three business days.

§52.1506 Access to City Facilities

Federal law enforcement agency personnel, out-of-state law enforcement personnel, and private party acting under the color of law enforcement authority shall not be given access to any non-public area of a City facility for the purpose

of carrying out law enforcement activities where the alleged criminal activity is protected personal characteristic or protected personal activity unless access is required by statute or by a judicially issued warrant or court order.

(b) This section does not prohibit access to City Facilities by federal law enforcement agency personnel or out-of-state law enforcement personnel in the following circumstances:

- (a) in response to an imminent threat to life or public safety pursuant to a narrowly tailored policy adopted by the City Manager; or
- (b) as part of an inspection under regulatory authority.
- (c) The City Manager shall report access to non-public areas of a City facility by any federal law enforcement agency personnel, out-of-state law enforcement personnel, or private party acting under color of enforcement authority for the purposes of carrying out for the purpose of carrying out law enforcement activities where the alleged criminal activity is protected personal characteristic or protected personal activity to Council in writing within three business days of the access.

§52.1507 Contractor and Vendor Compliance

- (a) Required Policy Adherence

All City agreements advertised and executed on or after the effective date of this Division shall include language requiring the following:

- (1) Compliance with California Government Code sections 7285.1 and 7285.2;

- (2) Maintaining any information relating to a *protected personal characteristic or protected personal activity* received or obtained as part of its performance of the *City agreement* confidential, and prohibiting the sharing or transmitting of such information to any third party unless required to do so under federal or state law, or to perform the *City agreement*;
- (3) The provisions of subsections (1) and (2) to be included in any subcontracts entered into related to the performance of the *City agreement*;
- (4) Display of public-facing signage required by section 52.1508;
- (5) Notice to the *City* within five business days of any request from a governmental entity for assistance with any *law enforcement activities* described in subsection (b) of section 52.1505.

(b) Exceptions

Exceptions to these requirements may be granted only by resolution of the Council or where compliance is expressly preempted by federal or state law.

§52.1508 **Notice Requirements**

(a) Signage

- (1) The City Manager shall post signage at the public entrances to all *City facilities* stating that access to *non-public area* by *federal law enforcement personnel, out-of-state law enforcement personnel,*

and private party acting under the color of law enforcement authority for the purpose of carrying out law enforcement activities where the alleged criminal activity is protected personal characteristic or protected personal activity is prohibited without a judicial warrant or court order.

(2) For all agreements for use of City-property that is accessible by the public executed on or after the effective date of this Division, the City Manager shall require the party to the agreement to post signage at the public entrances.

(b) Language and Format

The City Manager shall provide standardized signage in multiple languages containing the following language:

“NOTICE:

This facility is protected by the San Diego Due Process and Safety Ordinance.

Non-public areas may not be accessed by federal agents, out-of-state law enforcement, or private enforcement actors unless they present a judicially issued warrant or court order.

You have the constitutional right to decline to speak with any such individuals without legal representation.”