

Amadis Sotelo

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY
COUNCILMEMBER CHALRENE WANG AND COUNCILMEMBER NOEL GALLO

ORDINANCE: (1) REAFFIRMING THE CITY OF OAKLAND'S SANCTUARY CITY POLICY (COLLECTIVELY FOUND IN RESOLUTION NUMBERS 63950, 80584, 86498, 87036 C.M.S., AND ORDINANCE NUMBER 13515 C.M.S.); (2) PROHIBITING THE USE OF CITY PROPERTY FOR NON-CITY PURPOSES; (3) SETTING PARAMETERS FOR RESPONDING TO CIVIL IMMIGRATION DETAINER AND NOTIFICATION REQUESTS; AND (4) CONSOLIDATING AND CODIFYING THESE PROVISIONS AS CHAPTERS OF THE OAKLAND MUNICIPAL CODE AND DESIGNATING THIS ORDINANCE AS THE "CITY OF REFUGE" ORDINANCE

WHEREAS, the City of Oakland (City) is a city of immigrants and has a strong tradition of embracing and valuing diversity and respecting the civil and human rights of all residents regardless of their immigration status; and

WHEREAS, the City has been on record as a "City of Refuge" since July 8, 1986, when City Council adopted the City's first "Sanctuary City" type policy by approving Resolution No. 63950 C.M.S. (Resolution 63950 or City of Refuge policy); and

WHEREAS, Resolution 63950 specifically designated Oakland as a refuge for individuals fleeing political violence in Haiti, El Salvador, Guatemala, and South Africa and noted that the City has "a diverse cultural heritage and multi-national population of which the City is proud;" and

WHEREAS, on May 15, 2007, City Council adopted Resolution No. 80584 C.M.S. (Resolution 80584). Resolution 80584 amended the City of Refuge policy so that it applies to non-cooperation with federal immigration enforcement in regard to any undocumented immigrant, regardless of their country of origin or reasons for migration. This resolution also called upon the federal government to impose a moratorium on immigration raids and to adopt fair, comprehensive, and humane immigration reforms; and

WHEREAS, Resolution 80584 provides in relevant part that in “... accordance with state and federal laws City employees including members of the Oakland Police Department shall not enforce federal civil immigration laws and shall not use city monies resources or personnel to investigate question detect or apprehend persons whose only violation is or may be a civil violation of immigration law;” and

WHEREAS, the City reaffirmed its status as a Sanctuary City on November 29, 2016 when it adopted in Resolution No. 86498 C.M.S., which states: “the City Council’s desire to ensure that its immigrant residents participate in civic life and daily activities without fear of being arrested or reported to the United States Immigration and Customs Enforcement (ICE) agency;” and

WHEREAS, on July 18, 2017, City Council adopted Resolution No. 86860 C.M.S. (Resolution 86860), terminating a prior City Council approval (a March 2016 resolution adopted prior to the first term of President Trump) approving the Oakland Police Department (OPD) to enter into an agreement with Immigration and Customs Enforcement (ICE), for the purpose of designating OPD officers as United States Customs Title 19 Task Force Officers (TFOS), for investigation of gang and violent group crimes, drug and weapons smuggling, and human-trafficking crimes; and

WHEREAS, in terminating its prior approval of the agreement with ICE, Oakland City Council in Resolution 86860 declared that “the presence of ICE in Oakland is causing trauma in the community, and causing a chilling effect that weakens cooperation with local law enforcement;” and

WHEREAS, on January 16, 2018, City Council adopted Resolution 87036 C.M.S. which supplemented and amended Resolutions 63950, 80584, and 86498 in order to strengthen the policy of the City of Oakland not to cooperate with or provide support for ICE actions; and

WHEREAS, on January 22, 2019, the Oakland City Council adopted the City’s latest “Sanctuary City” policy--Ordinance Number 13515 C.M.S. (Ordinance 13515), the Oakland Sanctuary City Ordinance. Ordinance 13515 amended Resolutions 63950, 80584, and 86498 Resolution 87036 as law and supplemented previous resolutions. Ordinance 13515: (1) prohibits OPD employees from providing law enforcement assistance, including traffic support, to ICE or any of its subdivisions, except in response to a public safety emergency related to an ICE action or when required by federal or state law and (2) provides that if OPD assists in an ICE investigation, detention, or arrest, it must submit a written report to the Public Safety Committee at the earliest opportunity; and

WHEREAS, while Ordinance 13515 consolidated the City’s various “Sanctuary City” policies into one policy, that policy was not adopted as a Chapter of the Oakland Municipal Code. Further, Ordinance 13515 did not incorporate the provisions of Resolution 80584 that apply to all City employees; and

WHEREAS, as of mid-2025, immigration detention of undocumented individuals in California has reached its highest levels in years and the detained population was reported at over 5,700 in October 2025, which is an 84% increase since the spring. In April 2025, the count

stood at just above 3,100 people¹; and

WHEREAS, Deportations from California have also sharply increased in that approximately 5,500 people were deported from the state in the first seven months of 2025, representing a 78% jump compared to the same period in 2024. Additionally, more than 900 individuals accepted “voluntary departure” in that period, rather than face deportation hearings. While about 70% of ICE arrests targeted those with criminal records, there has been a notable increase in detentions and deportations of those without criminal charges or convictions—over 1,500 people in the first half of 2025; and

WHEREAS, ICE arrests have especially surged at locations such as court proceedings (including an ICE detention of an individual at an Oakland courthouse occurred on September 15, 2025, inside the Wiley Manuel Courthouse in Oakland) and check-ins, which has led to expedited removals without full hearings; and

WHEREAS, these actions have caused substantial disruption in California's immigrant communities, with effects ranging from school attendance drops to labor shortages and heightened community anxiety; and

WHEREAS, in early 2026, Mayor Barbara Lee issued executive orders establishing the "Protect the Town Task Force" and affirming that the Oakland Police Department (OPD) shall maintain complete operational independence from federal tactical units and shall not act at the direction of federal authorities; and

WHEREAS, OPD is committed to following the Sanctuary City Policy and parallel requirements pursuant to state law by refusing to assist in civil immigration enforcement; and

WHEREAS, the California Attorney General issued a Law Enforcement Guidance Statement on January 27, 2026, affirming that state and local law enforcement retain the primary authority and responsibility to investigate and prosecute potential violations of the California Penal Code, and specified that “where the facts warrant it, state or local prosecutors may file charges against federal agents or officers for violations of state criminal laws².”; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this Ordinance.

SECTION 2. The City Council explicitly reaffirms the City’s commitment as a Sanctuary City, by establishing a single Ordinance consolidating and codifying its Sanctuary City polices as a

¹ *TRAC Immigration Data/California Immigrant Policy Center*; <https://tracreports.org/immigration/>

² <https://oag.ca.gov/system/files/media/2026-dle-07.pdf>

Chapter of the Oakland Municipal Code and with the intention to protect the civil and human rights of all residents in the City of Oakland. The policies embodied in this Ordinance shall control, and supersede, rescind, and replace all prior Sanctuary City resolutions and ordinances enacted by the City Council, which are Resolution No. 63950 C.M.S, Resolution No. 80584 C.M.S, Resolution No. 86498 C.M.S, Resolution No. 87036 C.M.S., and Ordinance No. 13515 C.M.S.

SECTION 3. Oakland Municipal Code Chapter 2.21, the Oakland Sanctuary City Ordinance, is hereby added as Oakland Municipal Code Chapter, 2.21 as set forth below (chapter and section numbers and titles are indicated in **bold type**).

Chapter 2.21 – The City of Refuge Ordinance

2.21.010. Definitions.

The following definitions apply to this chapter:

"Administrative warrant" means a document issued by the federal agency charged with the enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for immigration purposes.

"Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred: (a) All criminal charges against the individual have been dropped or dismissed. (b) The individual has been acquitted of all criminal charges filed against him or her. (c) The individual has served all the time required for his or her sentence. (d) The individual has posted a bond, or has been released on his or her own recognizance. (e) The individual has been referred to pre-trial diversion services. (f) The individual is otherwise eligible for release under state or local law.

"Civil immigration detainer" means a non-mandatory request issued by an authorized federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations, to a local law enforcement official to maintain custody of an individual for a period not to exceed 48 hours and advise the authorized federal immigration officer prior to the release of that individual.

"Convicted" means the state of having been proved guilty in a judicial proceeding, unless the convictions have been expunged or vacated pursuant to applicable law. The date that an individual is Convicted starts from the date of release.

"Firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion as defined in Penal Code Section 16520.

"ICE" means any employee, member, agent, or representative of the federal Department of Immigration and Customs Enforcement.

"Notification request" means a non-mandatory request issued by an authorized federal immigration officer to a local law enforcement official asking for notification to the authorized immigration officer of an individual's release from local custody prior to the release of an individual from local custody. Notification requests may also include informal requests for release information by the Federal agency charged with enforcement of the Federal immigration law.

“OPD” means the City of Oakland Police Department.

"Personal information" means any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.

"Serious Felony" means all serious felonies listed under Penal Code Section 1192.7(c) that also are defined as violent felonies under Penal Code Section 667.5(c); rape as defined in Penal Code Sections 261; exploding a destructive device with intent to injure as defined in Penal Code Section 18740; assault on a person with caustic chemicals or flammable substances as defined in Penal Code Section 244; shooting from a vehicle at a person outside the vehicle or with great bodily injury as defined in Penal Code Sections 26100(c) and (d).

"Violent Felony" means any crime listed in Penal Code Section 667.5(c); human trafficking as defined in Penal Code Section 236.1; felony assault with a deadly weapon as defined in Penal Code Section 245; any crime involving use of a firearm, assault weapon, machine gun, or .50 BMG rifle, while committing or attempting to commit a felony that is charged as a sentencing enhancement as listed in Penal Code Sections 12022.1.

2.21.020. Provision of City Services

The provision of City services is not contingent on citizenship status, unless required by law.

2.21.030. Prohibition for all City Employees.

A. General Provisions

That in accordance with state and federal laws, City employees shall not conduct federal civil immigration enforcement and shall not use city monies, resources, or personnel to investigate, question, detect, or apprehend persons whose only violation is or may be a civil violation of immigration law.

B. Access to City Information and Records

Further, City employees shall not collect or request information, including on applications or otherwise, about immigration status for individuals receiving services unless authorized by the City Administrator or required by law. Additionally, City employees shall not provide access to ICE to City records or information beyond what is required by law, including 8 U.S.C §§ 1373, 1644.

The City Administrator shall conduct a Citywide review of forms and applications in use to ensure that the City is not collecting immigration status information, except as authorized by the City Administrator or required by law.

C. Providing Access to City Facilities

Generally, only authorized City employees may gain entry to non-public spaces of City facilities. Federal immigration officers are allowed in public areas of City facilities. Except in the case of exigent circumstances, ICE agents may not enter non-public or staff-only areas without a valid judicial warrant. City employees shall not provide voluntary consent to an immigration enforcement agent to enter any nonpublic areas. No City employee, including sworn police officers, are allowed to support immigration enforcement activity. But City employees, including sworn police officers, also shall not actively impede ICE activities.

2.21.040. Additional Prohibitions for OPD Employees.

A. General Prohibitions

1. OPD employees shall not provide law enforcement assistance, including traffic support, to ICE, including any subdivision of ICE, in any capacity except to respond to a public safety emergency related to an ICE action or where assistance is required by Federal or State statute, regulation or court decision.
2. In the event OPD assists in an ICE investigation, detention, arrest or any other operation, OPD shall explain the facts giving rise to its action in a written report to the Public Safety Committee at the earliest opportunity.
3. Nothing in this Ordinance shall be construed so as to prohibit or restrict OPD from conducting crowd management provided such actions comply with established departmental policy, applicable state law, and binding court orders.
4. Nothing in this Ordinance shall be construed so as to limit OPD's authority to investigate potential violations of California state law, including potential violations involving federal agents or officers.

B. Civil Immigration Detainers and Notification Requests

1. Except as provided in subsection 2., an OPD employee shall not detain an individual on the basis of a civil immigration detainer after that individual becomes eligible for release from custody.
2. An OPD employee may continue to detain an individual in response to a civil immigration detainer for up to 48 hours after that individual becomes eligible for release if the continued detention is consistent with state and federal law, and the individual meets both of the following criteria:
 - a. The individual has been convicted of a Violent Felony in the seven years immediately prior to the date of the civil immigration detainer; and

- b. A magistrate has determined that there is probable cause to believe the individual is guilty of a Violent Felony and has ordered the individual to answer to the same pursuant to Penal Code Section 872 .

In determining whether to continue to detain an individual based solely on a civil immigration detainer as permitted in this subsection b., OPD employees shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to: the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

3. Except as provided in subsection 4., an OPD employee shall not respond to a federal immigration officer's notification request.
4. An OPD employee may respond to a federal immigration officer's notification request if such response is consistent with state and federal law and if the individual meets both of the following criteria;

- a. The individual either:

- i. has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request; or
- ii. has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request; or
- iii. has been Convicted of three felonies identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, arising out of three separate incidents in the five years immediately prior to the date of the notification request; and

- b. A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to respond to a notification request as permitted by this subsection d., an OPD employee shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to, the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

5. An OPD employee shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, on the basis of an administrative

warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws.

6. OPD employees shall make good faith efforts to seek federal reimbursement for all costs incurred in continuing to detain an individual, after that individual becomes eligible for release, in response each civil immigration detainer.

2.21.050. Public Information.

A copy of this Ordinance shall be posted on the City’s website.

2.21.060. Administrative Regulations.

The City Administrator may promulgate and enforce rules and regulations, and issue clarifications and interpretations of the requirements provided above, consistent with and necessary for the implementation of this Chapter.

SECTION 4. Oakland Municipal Code Chapter 2.49, is hereby added as set forth below (chapter and section numbers and titles are indicated in **bold type**).

Chapter 2.49 – USE OF CITY PROPERTY

2.49.010. General Rule.

- A.** No person or entity may use real and personal property belonging to, or subject to the control of, any City department or City official (hereinafter “the City”) unless the use advances or promotes public programs or other purposes authorized by the City and the City has authorized the use.
- B.** No City official, employee, or department shall authorize the use of any real or personal property subject to the control or jurisdiction of the City if the use will disrupt City operations or discourage access to City services, unless the use furthers a City purpose or other use authorized by the City.
- C.** The use of real or personal property for criminal activity or to assist in the enforcement of Federal immigration law are not City purposes.
- D.** The use of real or personal property shall mean the right to occupy or use the property, to the exclusion of others, and shall include but not be limited to a license, permit to enter, use permit, lease, or other similar instrument. It shall not mean non-exclusive access or use of the City’s property traditionally open and available to the public where that access or use is on the same terms as members of the public and does not disrupt City operations.
- E.** Nothing in this Chapter shall be construed to interfere with or inhibit any exercise of the constitutionally protected rights of freedom of speech or assembly or to prevent the use of, or access to, City property as required by law.

F. Nothing in this Chapter shall impair any lease, license, or other property interest or contractual restriction in existence prior to the effective date of this Ordinance.

2.49.020. Administrative Regulations.

The City Administrator may promulgate and enforce rules and regulations, and issue clarifications and interpretations of the requirements provided above, consistent with and necessary for the implementation of this Chapter.

SECTION 5. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

SECTION 6. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG, AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

NOTICE AND DIGEST

ORDINANCE: (1) REAFFIRMING THE CITY OF OAKLAND'S SANCTUARY CITY POLICY (COLLECTIVELY FOUND IN RESOLUTION NUMBERS 63950, 80584, 86498, 87036 CMS, AND ORDINANCE NUMBER 13515 C.M.S.); (2) PROHIBITING THE USE OF CITY PROPERTY FOR NON-CITY PURPOSES; (3) SETTING PARAMETERS FOR RESPONDING TO CIVIL IMMIGRATION DETAINER AND NOTIFICATION REQUESTS; AND (4) CONSOLIDATING AND CODIFYING THESE PROVISIONS AS CHAPTERS OF THE OAKLAND MUNICIPAL CODE AND DESIGNATING THIS ORDINANCE AS THE "CITY OF REFUGE" ORDINANCE

This Ordinance consolidates several existing City policies (collectively relating to the City's Sanctuary City status) and codifies them as part of the Oakland Municipal Code. It also establishes rules concerning the how City property may be used and among other things, prohibits the use of City property for criminal activity or to provide assistance in the enforcement of Federal immigration law. The legislation also sets parameters for the City's response to civil immigration detainer and notification requests.