



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Councilmember Ortiz
Councilmember Kamei
Councilmember Cohen
Councilmember Campos

SUBJECT: SEE BELOW

DATE: September 4, 2025

Approved:

Date: 9/4/2025

**SUBJECT: ORDINANCE PROHIBITING LAW ENFORCEMENT OFFICERS FROM
CONCEALING THEIR IDENTITIES IN THE CITY OF SAN JOSÉ**

RECOMMENDATION

Direct the City Attorney's Office to return within 60 days with proposed language for a draft ordinance that would:

1. Prohibit Concealment of Identity
 - Prohibit all law enforcement officers, including federal agents operating within the City of San José, from wearing any mask or personal disguise while interacting with the public in the course of their duties within the city.
 - Appropriate, pre-approved exemptions would apply, including the use of gas masks, fire/smoke protection masks, or medical grade masks, when necessary, as well as exemptions for lawful undercover law enforcement operations and operations predefined by the Chief of Police.
2. Require Visible Identification
 - All law enforcement officers, including federal agents operating within the City of San José, must wear visible identification and clear agency affiliation while interacting with the public during their duties within the city.
3. Information Sharing

- SJPd will report to the City Manager's Office any instance where Police Department Officers respond to an incident involving a federal agency conducting immigration enforcement activity in the city.
 - The City Manager's Office will share the reports to the Council Offices and will then partner with the council offices to share them with a cross-sector community leadership group. Before undertaking operations that are reasonably likely to involve agency personnel wearing facial coverings, require federal law enforcement agencies to provide advance notice to the San Jose Police Department.
4. Use CIPC Ordinance as Guiding Framework
- The City Attorney's Office shall use the ordinance template prepared by the California Immigrant Policy Center (Attachment) regarding law enforcement officer identification and prohibition of face coverings as a guiding framework when developing the proposed draft ordinance for the City of San José.

BACKGROUND

Transparency and accountability are the foundations of trust between the community and law enforcement. Recent incidents, both within the state and nationwide, have raised public concern about the practice of federal law enforcement officers concealing their identities when interacting with members of the public. Such practices erode public confidence and compromise the principles of open governance and community safety.

This matter is particularly urgent given the federal government's indiscriminate targeting of immigrant communities through immigration enforcement actions that have violated all of our constitutional human rights. Reports and community testimonies have highlighted the refusal of Immigration and Customs Enforcement (ICE) officers to identify themselves as officers when conducting enforcement operations in California. Such conduct not only undermines the legal rights of our residents but also instills fear and distrust throughout immigrant neighborhoods.

San José must ensure that all law enforcement personnel, including federal agents, are held to the same standard of transparency and accountability when operating in our city.

ATTACHMENT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF [_____] AMENDING [_____] OF THE [CITY OF _____] MUNICIPAL CODE RELATING TO REQUIRING ALL LAW ENFORCEMENT OFFICERS OPERATING IN THE CITY OF [_____] TO WEAR CLEARLY VISIBLE IDENTIFICATION AND PROHIBIT FACE COVERINGS OBSTRUCTING IDENTITY DURING PUBLIC INTERACTION

WHEREAS, the federal government, through the United States Immigration and Customs Enforcement (ICE), has launched broad immigration enforcement efforts, deploying personnel from various federal agencies, including those within the Department of Justice, as part of the Trump Administration's immigration enforcement operations; and

WHEREAS, ICE officers have conducted operations while wearing face coverings, including gaiter and ski masks; and

WHEREAS, several news outlets have reported incidents of individuals impersonating ICE officers to harass or detain others, which undermines public trust in law enforcement, especially among vulnerable individuals, and poses a threat to public safety; and

WHEREAS, Charges filed against individuals include kidnapping and impersonating a police officer after allegedly detaining a group of Latino men, impersonating an ICE officer on a university campus, and impersonating an ICE officer in connection with the sexual assault of a woman while threatening her with deportation; and

WHEREAS, State and local jurisdictions bear primary responsibility for ensuring the safety and well-being of their communities; and

WHEREAS, in exercising their sovereign duty to promote public safety, State and local governments have adopted local laws and policies reflecting careful judgment of what policies and practices best serve their communities; and

WHEREAS, the United States Supreme Court has long emphasized that local control over health and safety of residents ensures that matters, concerning the lives, liberties and properties of the people are determined by governments more local and more accountable than distant federal bureaucracy; and

WHEREAS, enshrined in the Constitution and a core part of American democracy respects the police power of the States and local governments; and

WHEREAS, local governments and officials have wide discretion in determining their own policy for the safety, peace and good order of their own people; and

WHEREAS, the California Constitution provides that cities possess the power to enforce all local police, sanitary and ordinances and regulations not in conflict with general laws; and

WHEREAS, State law restricts peace officers from detaining, for suspected immigration violations, victim of or witnesses to hate crimes who were not themselves charged with a state criminal offense; and

WHEREAS, the California Legislature limited the circumstances under which local law enforcement official could detain individuals at the request of federal immigration authorities; and

WHEREAS, the California Legislature adopted the California Values Act generally prohibiting State and local law enforcement agencies from using public funds or personnel to investigate, interrogate, detain, or arrest persons for immigration enforcement purposes; and

WHEREAS, the California Immigrant Worker Protection Act, prohibits employers or anyone acting on behalf of an employer from giving voluntary consent to immigration enforcement agents to enter or search nonpublic areas of the workplace, or from accessing, reviewing or seizing employee personnel records without a warrant; and

WHEREAS, transparency and accountability in law enforcement are essential to maintaining public trust and effective community policing; and

WHEREAS, the ability of the public to identify law enforcement officers during interactions promotes accountability and strengthens police-community relations; and

WHEREAS, the City Council of [_____] finds that prohibiting law enforcement officers from wearing masks or personal disguises while interacting with the public, with limited exceptions, will enhance transparency and accountability; and

WHEREAS, the federal government has constitutional authority to regulate immigration; and

WHEREAS, the United States Constitution contains limits on the federal governments excise of this authority; and

WHEREAS, bounty hunters are not authorized federal agents; and

WHEREAS, ICE is not allowed to enter nonpublic places absent, (1) exigent circumstances, (2) consent, or (3) a judicial warrant (i.e., not an administrative warrant); and

WHEREAS, This Ordinance is not intended to obstruct, hinder, or interfere with the legitimate exercise of federal immigration enforcement authority, but rather to enhance transparency, accountability, and public safety within the City's jurisdiction.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF [_____] DOES HEREBY ORDAIN AS FOLLOWS:

Section [_____]to the [_____] Municipal Code is hereby created as follows:

SECTION 1. Definitions. For the purpose of this Ordinance, the following definitions shall apply:

A. "Law enforcement officer" means any officer of a local, state, or federal law enforcement agency, or any person acting on behalf of a local, state, or federal law enforcement agency, who is authorized to enforce laws within the City of [_____] , including but not limited to the ICE, United States Customs and Border Protection ("CBP"), Federal Bureau of Investigation ("FBI"), or any other federal agency with law enforcement authority.

B. "Face Covering" means any item worn to conceal or obscure an officer's facial features or identity, including but not limited to balaclavas, ski masks, face coverings, scarf, bandana, or other similar items cover the nose and mouth of the wearer in a manner that obscures the wearer's identity.

C. "Interacting with the public" means any direct communication or engagement between a law enforcement officer and a member of the public in the course of the officer's official duties, whether in person, during traffic stops, while responding to calls for service, or during community policing activities.

SECTION 2. Federal Authority Recognition and Preemption Avoidance.

A. The City of [_____] acknowledges and respects the authority of the federal government to enforce federal immigration laws within the United States, including within the City's jurisdiction.

B. Nothing in this Ordinance shall be construed to prohibit, restrict, or interfere with the proper exercise of federal immigration enforcement authority in accordance with federal law.

C. This Ordinance is intended to operate within the City's legitimate police powers to protect public safety, prevent fraud and impersonation, and ensure transparency in law enforcement operations within its jurisdiction.

SECTION 3. Restrictions on Personal Disguises for Law Enforcement Officers.

A. Prohibition. A law enforcement officer shall not wear any mask or personal disguise while interacting with the public in the performance of their duties, except for:

1. Medical grade masks, defined as surgical masks or N95 respirators that are approved by the Food and Drug Administration (FDA) or the National Institute for Occupational Safety and Health (NIOSH) and are designed to prevent the transmission of airborne diseases; and
2. Masks designed to protect against exposure to smoke, ash, or other airborne particulates during a state of emergency related to wildfires, as declared by the Mayor, City Council, or Governor.

SECTION 4. Special Weapons and Tactics (SWAT) Team Exception.

- A. It is the intent of the [_____] City Council to ensure that Special Weapons and Tactics (SWAT) team officers, defined as law enforcement officers specially trained and equipped to respond to high-risk situations that require specialized tactics and equipment beyond the capabilities of regular patrol officers, can utilize gear necessary to protect their faces from physical harm while they perform their SWAT responsibilities.
- B. The Chief of Police shall develop and implement regulations, subject to approval by the City Council, that specify the circumstances under which SWAT team officers may wear protective face coverings during tactical operations, provided that such regulations include requirements for officer identification through other visible means.

SECTION 5. Identification Requirements.

- A. It is the intent of the City Council to require law enforcement officers to include their name or badge number on their uniforms.
- B. All law enforcement officers operating within the City of [_____] shall wear a clearly visible and prominently displayed badge or other form of official identification that includes the officer's name, agency affiliation, and badge or identification number.
- C. Upon request, provide their full name, agency affiliation, and badge or identification number to any individual subject to an immigration enforcement action.
- D. Present official credentials identifying themselves as federal officers authorized to conduct immigration enforcement operations when initiating contact with any individual.

SECTION 6. Impersonation Prevention, Investigation, and Reporting.

- A. The City of [_____] Police Department shall:
 1. Establish a specialized unit or designate officers specifically trained to investigate reported incidents of individuals impersonating law enforcement officers, including but not limited to ICE and FBI agents, within the City.
 2. Develop and implement protocols for responding to and investigating such reports, including:
 - ii. Procedures for gathering and preserving evidence;
 - iii. Methods for verifying the authenticity of purported federal credentials;

- iv. Coordination with federal agencies to confirm the identity and authority of individuals claiming to be federal officers; and
 - v. Techniques for interviewing victims and witnesses of impersonation incidents.
- B. Conduct regular training for all police personnel on recognizing and responding to potential impersonation incidents.
- C. Establish an expedited response protocol for reports of impersonation in progress.
- D. Maintain detailed records of all reported impersonation incidents, including the nature of the incident, actions taken, and resolution.
- E. Report any confirmed incidents of impersonation to:
 - 1. The relevant federal law enforcement agency;
 - 2. The Federal Bureau of Investigation;
 - 3. The United States Attorney's Office;
 - 4. The California Attorney General's Office; and
 - 5. The public, through appropriate channels, while protecting victim privacy and ongoing investigations.

SECTION 7. Enforcement Authority and Mechanisms.

- A. The [_____] Police Department is hereby authorized and directed to enforce the provisions of this section.
- B. Individuals found to be impersonating Federal Law Enforcement Personnel shall be subject to:
 - 1. Criminal prosecution under applicable state and local laws, including but not limited to:
 - i. California Penal Code Section 146a (impersonating a peace officer);
 - ii. California Penal Code Section 538d (unauthorized wearing of law enforcement uniform);
 - iii. California Penal Code Section 532 (false pretenses); and
 - iv. Any other applicable criminal statutes.
- C. Enhanced penalties as provided under California law when impersonation is committed in connection with other criminal offenses.
- D. Civil liability for damages caused to victims of impersonation.
- E. Public notification of conviction, consistent with privacy laws and ongoing law enforcement operations.
- F. The City Manager and City Attorney are authorized to take all necessary and appropriate actions to enforce the provisions of this Ordinance, including but not limited to:
 - i. Seeking injunctive relief in a court of competent jurisdiction;

- ii. Coordinating with federal agency leadership to address patterns of non- compliance;
- iii. Implementing administrative measures to ensure compliance with verification procedures; and
- iv. Developing additional enforcement mechanisms as necessary to fulfill the purposes of this Ordinance.

SECTION 8. Severability.

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

SECTION 9. The City Clerk shall certify the adoption of this ordinance and shall cause the same to be published according to law.