

[Police Code - Non-Legal Immigration Services]

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Ordinance amending the Police Code to require that individuals who notarize or assist people in completing immigration documents offer a document prepared by the City that identifies free or low-cost immigration legal services providers and consulates; and to authorize the Human Rights Commission to provide assistance to members of the public who wish to file a complaint with a state licensing or enforcement entity against a notary or immigration consultant who allegedly violated legal requirements applicable to their activities.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

(a) Due to the federal government’s recent increase in immigration enforcement actions, it is more important than ever for immigrants to be aware of the legal services available to them. The City and others fund immigration legal service providers so they can offer services to low-income members of the community at low or no cost.

(b) Immigrants sometimes seek non-legal immigration services at offices of notaries and immigration consultants. Under state law, notaries are authorized to witness the signing of documents, and immigration consultants may assist clients with completing certain immigration forms and submitting required documents. State law prohibits notaries and

1 immigration consultants from providing legal advice, including in immigration proceedings.
2 Nonetheless, there have been instances of notaries and immigration consultants unlawfully
3 holding themselves out as attorneys authorized to provide representation in immigration
4 matters. This unlawful conduct can have a serious adverse impact on the immigration
5 proceedings of individuals who believed they were receiving legitimate legal advice and
6 representation.

7 (c) Notaries and immigration consultants must post notice at their place of business
8 indicating they are not licensed to practice law. And state law prohibits notaries from using
9 the Spanish term "notario" or "notario público" when advertising their services in Spanish,
10 because this term in some Spanish-speaking countries indicates that the person is an
11 attorney.

12 (d) Because immigrants in the City seek assistance with immigration matters from
13 notaries and immigration consultants, it is important that they receive accurate information
14 concerning the availability of legal service providers who can provide advice and
15 representation in immigration proceedings. The purpose of this ordinance is to create a link
16 between individuals seeking legal advice and legal service providers by requiring notaries and
17 immigration consultants to provide clients with a City-created list of pro bono or low-cost legal
18 service providers. People involved in immigration proceedings may also benefit from
19 assistance that the consulate of the country from which they immigrated, and this ordinance
20 also requires the distribution of contact information for such consulates.

21 (e) This ordinance also authorizes the Human Rights Commission to assist individuals
22 who believe that a notary or immigration consultant has engaged in conduct that violates the
23 legal requirements governing their activities to file complaints with the relevant state licensing
24 or enforcement entities.

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1 Section 2. The Police Code is hereby amended by adding Article 13.5, consisting of
2 Sections 978.1, 978.2, and 978.3, to read as follows:

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4 **ARTICLE 13.5: NON-LEGAL IMMIGRATION SERVICES**

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6 **SEC. 978.1. DEFINITIONS.**

7 *For purposes of this Article 13.5, the following definitions apply:*

8 *“Non-Legal Immigration Service” means 1) the notarization of documents for a person’s use in*
9 *immigration applications or proceedings by a notary public who holds a commission issued by the*
10 *Secretary of State under Sections 8200, et seq. of the California Government Code , as may be*
11 *amended from time to time, or 2) assistance to a person in completing immigration applications or*
12 *other immigration-related documents provided by an immigration consultant authorized to act as such*
13 *under Sections 224040 through 22449 of the California Business and Professions Code, as may be*
14 *amended from time to time.*

15 *“Non-Legal Immigration Service Provider” means a person who provides Non-Legal*
16 *Immigration Services.*

17 *“Referral Documents” means documents prepared by the Office of Civic Engagement and*
18 *Immigrant Affairs (“OCEIA”) that include both of the following: 1) a list of pro bono and low-cost*
19 *immigration legal service providers, and 2) contact information for local consulates.*

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21 **SEC. 978.2. INFORMATION TO BE PROVIDED BY NON-LEGAL IMMIGRATION**
22 **SERVICE PROVIDERS.**

23 *(a) A Non-Legal Immigration Service Provider shall offer Referral Documents to each person*
24 *for whom the provider provides Non-Legal Immigration Services.*

1 (b) OCEIA shall create the Referral Documents. OCEIA shall post the Referral Documents to
2 its website for downloading and printing by Non-Legal Immigration Service Providers. OCEIA shall
3 also provide the Referral Documents by e-mail upon request and shall make hard copies of the Referral
4 Documents available at its offices upon request at no cost. OCEIA shall indicate in the Referral
5 Documents that OCEIA prepared the documents and that this Section 978.2 requires Non-Legal
6 Immigration Service Providers to distribute such documents.

7 (c) Enforcement. The Human Rights Commission (“HRC”) shall have authority to enforce the
8 requirement of subsection (a) pursuant to the process established in Chapter 100 of the Administrative
9 Code, except that HRC shall first issue a warning to any Non-Legal Immigration Service Provider who
10 violates subsection (a) before issuing a citation under Chapter 100 of the Administrative Code for a
11 second and any subsequent violation by the same Non-Legal Immigration Service Provider. HRC shall
12 consider in exercising its enforcement discretion whether the Non-Legal Immigration Service Provider
13 provides services to low-income clients who would benefit from receiving the Referral Documents.

14 (d) Outreach and Information Education. Upon the effective date of the ordinance in Board
15 File No. 251252, the Director of the Office of Economic and Workforce Development or their
16 designee shall work with City departments to identify and implement of OCEIA and the
17 Director of the Office of Small Business or their designees shall commence an outreach and
18 education program to inform Non-Legal Immigration Service Providers who serve as notaries and
19 the public of the requirements of this Article 13.5. Such efforts may include through a series of
20 public service announcements and/or other direct outreach methods of the requirements of this
21 Section 978.2.

22 (e) Rules and Regulations. The Executive Director of OCEIA of HRC or the Director’s
23 designee shall have authority to promulgate any rules and regulations the Director deems necessary to
24 implement this Section 978.2.

1 (f) Preemption. Nothing in this Section 978.2 shall be interpreted or applied so as to create
2 any requirement, power, or duty in conflict with any federal or state law.

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4 **SEC. 978.3. ASSISTANCE WITH LODGING COMPLAINTS.**

5 The Executive Director of HRC or the Director's designee shall have authority to provide
6 technical assistance referrals to any person who wishes to lodge a complaint with a state licensing
7 agency or other appropriate authority against a Non-Legal Immigration Service Provider who the
8 person believes has violated any law or regulation governing the services the Non-Legal Immigration
9 Service Provider is authorized to provide the public.

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11 Section 3. Undertaking for the General Welfare. In enacting and implementing this
12 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
13 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
14 is liable in money damages to any person who claims that such breach proximately caused
15 injury.

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17 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of
18 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
19 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
20 affect the validity of the remaining portions or applications of the ordinance. The Board of
21 Supervisors hereby declares that it would have passed this ordinance and each and every
22 section, subsection, sentence, clause, phrase, and word not declared invalid or
23 unconstitutional without regard to whether any other portion of this ordinance or application
24 thereof would be subsequently declared invalid or unconstitutional.

1 Section 5. ~~Effective Date~~ and Operative Dates. This ordinance shall become effective
2 at 12:00 a.m. on the 31st days after enactment. Enactment occurs when the Mayor signs
3 the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance
4 within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the
5 ordinance. This ordinance shall become operative six months after the effective date of the
6 ordinance in Board File No. 251252.

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8 APPROVED AS TO FORM:
9 DAVID CHIU, City Attorney

10 By: /s/ Bradley A. Russi
11 BRADLEY A. RUSSI
12 Deputy City Attorney
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