

1 [Administrative Code - Non-Cooperation with Religion Registry]

2  
3 **Ordinance amending the Administrative Code to prohibit the City from using resources**  
4 **to create, implement, provide investigation or information for, enforce, or otherwise**  
5 **assist or support any government program requiring the registration of individuals on**  
6 **the basis of religion, or creating a database of individuals on the basis of religion.**

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

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

15 Section 1. The Administrative Code is hereby amended by adding Chapter 103 to  
16 consist of Sections 103.1, 103.2, 103.3, 103.4, 103.5, 103.6, and 103.7, to read as follows:

17 **CHAPTER 103: RELIGION REGISTRY NON-COOPERATION ORDINANCE**

18  
19 **SEC. 103.1. TITLE.**

20 *This Chapter 103 shall be known as the Religion Registry Non-Cooperation Ordinance.*

21  
22 **SEC. 103.2. FINDINGS AND PURPOSE.**

23 *(a) From its earliest beginnings, the United States and its citizens have cherished religious*  
24 *freedom. Many of the early settlers from Europe came to America to escape religious persecution, and*  
25 *subsequent waves of immigrants included many refugees from religious oppression. Enshrined in the*

1 First Amendment to the Constitution is the admonition that “Congress shall make no law respecting an  
2 establishment of religion, or prohibiting the free exercise thereof.” Even predating the First  
3 Amendment, Article VI of the Constitution prohibited, and continues to prohibit, a religious test for any  
4 federal office. The California Constitution is in line with its federal counterpart, guaranteeing, in  
5 Article I, Section 4, the “[f]ree exercise and enjoyment of religion without discrimination or  
6 preference” and prohibiting any law “respecting an establishment of religion.”

7 (b) These constitutional pronouncements have been matched in recent decades by legislation  
8 recognizing that discrimination based on religion is intolerable in a free society. As prime examples,  
9 the Civil Rights Act of 1964 outlaws discrimination on the basis of religion in employment and access  
10 to public accommodations, the Fair Housing Act of 1968 outlaws discrimination on the basis of  
11 religion in housing, and the Religious Freedom Restoration Act of 1993 offers considerable protection  
12 against laws which, though neutral in form, place burdens on the free exercise of religion. In  
13 California, the Unruh Act protects against religious discrimination in public accommodations, and the  
14 Fair Employment and Housing Act protects against religious discrimination in those areas.

15 (c) San Francisco’s laws champion the same commitment to religious freedom, tolerance, and  
16 diversity that federal and state law recognize. These principles are articulated, for example, in the  
17 findings and policy declaration forming the basis for the Human Rights Commission (Administrative  
18 Code, Sections 12A.1, 12A.2). It is the official policy of the City to eliminate discrimination within the  
19 City based on religion. (Police Code, Section 3301.) Following through on that policy, City laws  
20 proscribe religious discrimination in many areas, including public accommodations, employment, and  
21 housing. (Police Code, Article 33.)

22 (d) Against this backdrop of federal, state, and local laws insisting that people not be treated  
23 differently because of religion – demanding that people be free to enjoy their religious beliefs,  
24 associations, practices, backgrounds, and identities – any proposal to base a governmental registry on  
25 religion or for a governmental entity to compile a database of individuals based on religion is

1 anathema to this country, this state, and this city. For government to label people by religion would  
2 repudiate our most cherished values.

3 (e) And such a registry or database would be very dangerous. It would demean those in our  
4 community included in the registry or database, and would foster the very prejudice and discrimination  
5 that federal, state, and local laws are designed to combat. It would teach people that hate, fear, and  
6 suspicion of religious minorities is permissible. Misguided individuals could see the registry or  
7 database as sanctioning the commission of hate crimes against religious minorities in general, and  
8 especially against those individuals whose religion – or perceived religion – is targeted as the basis for  
9 inclusion in the registry or database. At the same time, those individuals the government seeks to label  
10 by religion would naturally be reluctant to interact with government beyond what is absolutely  
11 necessary. Cooperation with local law enforcement investigations would likely decline; use of the  
12 City’s public health facilities, and the provision of personal information related to public health, would  
13 likely decline; participation in programs designed to uplift the disadvantaged would likely decline. In  
14 these and like circumstances, the entire community – not just the targeted individuals – would suffer.

15 (f) Further, once the government starts classifying people by religion, no one can say where or  
16 when the practice will end; which groups will be the subject of classification, and which not; how the  
17 information will be used by the authorities; and what additional measures, if any, will be taken by  
18 government toward or against people based on religion. In this regard, history’s examples are not  
19 comforting. Gross violations of human rights can begin with smaller violations. The first step down  
20 that road can lead to second, third, and fourth steps that at the beginning would seem unimaginable.

21 (g) Notwithstanding this country’s fidelity to the principle of religious freedom, there have been  
22 instances in which we have sometimes fallen short in practicing religious tolerance. Catholics, Jews,  
23 Muslims, Jehovah’s Witnesses, and some other Protestant sects, among many other faith communities,  
24 have at times felt the sting of religious bigotry and discrimination. Members of certain faith  
25 communities have been the victims of hate crimes, including in recent years most particularly Jews and

1 Muslims. There has been an upsurge in anti-Muslim sentiment in recent years, as measured by hate  
2 crimes statistics and other social science data. In the modern era, if not always in the more distant  
3 past, government has acted as a positive force to curb religious bigotry and discrimination. For  
4 government to start to classify people by religion through a registry or other database would put  
5 government on a different, more ominous course and would profoundly injure the City's relationship  
6 with its residents.

7  
8 **SEC. 103.3. DEFINITIONS.**

9 For purposes of this Chapter 103, the following terms have the following meanings:

10 "List, Database, or Registry" means any public, private, or joint public-private collection of  
11 information stored in any form.

12 "Personal Information" means any information that can, on its own or in combination with  
13 other information, be used to contact, track, locate, identify, or reasonably infer the identity of, a  
14 specific individual.

15  
16 **SEC. 103.4. ASSISTANCE WITH GOVERNMENT REGISTRY OR DATABASE.**

17 (a) No officer, employee, department, board, commission, or other entity of the City shall use  
18 City moneys, facilities, property, equipment, or personnel to create, implement, provide investigation  
19 for, enforce, or assist in the creation, implementation, provision of investigation for, or enforcement of,  
20 or provide support in any manner for, any government program that (1) creates or compiles a List,  
21 Database, or Registry of individuals on the basis of religious affiliation, kinship, belief, or practice, or  
22 (2) requires registration of individuals in a List, Database, Registry, or otherwise, on the basis of  
23 religious affiliation, kinship, belief, or practice.

24 (b) Notwithstanding any other law, no officer, employee, department, board, commission, or  
25 other entity of the City shall provide or disclose to any government authority Personal Information

1 regarding any individual that is requested for the purpose of (1) creating or compiling a List,  
2 Database, or Registry of individuals based on religious affiliation, kinship, belief, or practice, or (2)  
3 requiring registration of individuals in a List, Database, registry, or otherwise, on the basis of religious  
4 affiliation, kinship, belief, or practice. In addition, regardless of the purpose of the request, no such  
5 information shall be provided or disclosed to any government authority if it could potentially become  
6 part of such a List, Database or Registry.

7 (c) This Section 103.4 shall apply to all individuals, regardless of citizenship or immigration  
8 status, race, age, or any other factor.

9  
10 **SEC. 103.5. ENFORCEMENT.**

11 The Director of the Human Rights Commission, or his or her designee (“the Director”) shall  
12 review compliance with this Chapter 103. The Director may initiate and receive complaints regarding  
13 violations of this Chapter. After conducting an investigation, the Director may issue findings regarding  
14 any alleged violation. If the Director finds that a violation occurred, the Director shall, within 30 days  
15 of such finding, send a report of such finding to the Board of Supervisors, the Mayor, and the head of  
16 any department involved in the violation or in which the violation occurred. All officers, employees,  
17 departments, boards, commissions, and other entities of the City shall cooperate with the Director in  
18 any investigation of a violation of this Chapter.

19  
20 **SEC. 103.6. UNDERTAKING FOR THE GENERAL WELFARE.**

21 In enacting and implementing this Chapter 103, the City is assuming an undertaking only to  
22 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an  
23 obligation for breach of which it is liable in money damages to any person who claims that such breach  
24 proximately caused injury.

1           **SEC. 103.7. SEVERABILITY.**

2           If any section, subsection, sentence, clause, phrase, or word of this Chapter 103, or any  
3 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a  
4 decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining  
5 portions or applications of this Chapter. The Board of Supervisors hereby declares that it would have  
6 passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not  
7 declared invalid or unconstitutional without regard to whether any other portion of this Chapter or  
8 application thereof would be subsequently declared invalid or unconstitutional.

9  
10           Section 2. Effective Date. This ordinance shall become effective 30 days after  
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
13 of Supervisors overrides the Mayor's veto of the ordinance.

14  
15 APPROVED AS TO FORM:  
16 DENNIS J. HERRERA, City Attorney

17 By: \_\_\_\_\_  
18       BRADLEY A. RUSSI  
19       Deputy City Attorney

20 n:\legana\as2017\1700395\01165404.docx