

1 [Administrative Code - Ban on City-Funded Travel to and City Contracts Involving States with
2 Voter Suppression Laws]

3 **Ordinance amending the Administrative Code to prohibit City-funded travel to states**
4 **that have adopted laws on or after January 1, 2021 suppressing voting rights, and to**
5 **prohibit City contracting with companies headquartered in states that have enacted**
6 **such laws, or where work on the contract would be performed in such states, and**
7 **setting an operative date of December 1, 2021.**

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

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

16 Section 1. Chapter 12X of the Administrative Code is hereby amended by adding
17 Article III, consisting of Sections 12X.21 through 12X.30, to read as follows:

18 **ARTICLE III: STATES WITH VOTER SUPPRESSION LAWS**

19 **SEC. 12X.21. FINDINGS AND PURPOSE.**

20 *(a) San Francisco is committed to conducting fair and open elections. That commitment*
21 *includes making elections as widely accessible as possible. For example, the City has instituted early*
22 *voting at City Hall, sent vote-by-mail ballots to all voters during the recent pandemic, and provided*
23 *ballot drop-off boxes throughout the City, including in all precincts on Election Day.*

24 *(b) But the history of our nation has been marred by recurring efforts to restrict the voting*
25 *rights of Black citizens and other citizens of color. After the 2020 presidential election, many states*

1 introduced, and several states have already enacted, new and oppressive voter restriction laws that
2 disproportionately impact minority and low-income voters and that make it harder for Black people,
3 other people of color, and voters from low-income communities to exercise their most fundamental of
4 rights. Such voter suppression is a threat to our entire democratic system.

5 (c) San Francisco adopts this Chapter 12X, Article III, to prevent the expenditure of City funds
6 on travel in states that have enacted voter suppression laws or on contracts with businesses
7 headquartered or performing contractual services for the City in such states.

8
9 **SEC. 12X.22. GENERAL DEFINITIONS.**

10 For purposes of this Article III, Chapter 12X:

11 “City” means the City and County of San Francisco.

12 “Contract” means an agreement between a Contracting Department and any person or entity
13 that provides, at the expense of the City, for public works or public improvements to be purchased
14 under Chapter 6 of the Administrative Code, or for commodities or services to be purchased under
15 Chapter 21 of the Administrative Code. Notwithstanding the foregoing, “Contract” shall not include:

16 (a) Agreements for the investment of trust money or relating to the management of trust
17 assets, agreements to invest City moneys in U.S. government securities, or agreements for the
18 investment, deposit, or safekeeping of City moneys, where, for any such agreement, the Treasurer, as a
19 fiduciary of the City, determines that entering into the agreement is in the interest of soundly investing
20 public assets; or

21 (b) Agreements entered into for underwriting services for the purchase and sale of City
22 bonds, notes, and other forms of indebtedness; or

23 (c) Agreements advertised, solicited, or initiated prior to the ~~Operative~~ Effective Date of this
24 Article III, Chapter 12X, including amendments to existing Contracts.

1 “Contracting Department” means the City department, office, board, commission, or other City
2 agency that enters into a Contract on behalf of the City.

3 “Contractor” means any corporation, partnership, individual, sole proprietorship, joint
4 venture, or other legal entity or combination thereof, which enters into a Contract with the City.

5 “Covered State” means a state that has adopted a Voter Suppression Law, as defined in
6 Section 12X.23, below, on or after January 1, 2021.

7 “Covered State List” means the list maintained by the City Administrator of all states that meet
8 the definition of a Covered State, in accordance with Section 12X.24.

9 ~~“Operative Date” means December 1, 2021, or the effective date of the ordinance in~~
10 ~~Board File No. _____ establishing this Article III, Chapter 12X, whichever is later.~~

11
12 **SEC. 12X.23. “VOTER SUPPRESSION LAW” DEFINED.**

13 “Voter Suppression Law” means a state law, adopted on or after January 1, 2021, that makes
14 it, on balance, harder to register to vote, harder to stay on the voter registration rolls, or harder to
15 vote, as compared to existing state law prior to the date of adoption, regardless of whether there are
16 exceptions to such laws. In addition, “Voter Suppression Law” means a state law, adopted on or after
17 January 1, 2021, that reallocates responsibility for the processing, tabulation, or determination of votes
18 and/or election results in a manner that, on balance, presents a danger that the will of the voters as
19 expressed in their votes will be overridden. By way of example but not limitation, the following laws
20 are likely to be Voter Suppression Laws within the meaning of this Section 12X.23:

21 **(a) Laws Restricting Voter Registration:**

22 (1) Laws that remove voters from voter rolls for not having voted in previous elections.

23 (2) Laws that require voters to re-register repeatedly in order to remain on voter rolls.

24 (3) Laws that expand voter roll purges or eliminate safeguards that prevent improper
25 purges.

1 **(b) Laws Restricting General Voting:**

2 (1) Laws that unduly limit or reduce the number of polling places.

3 (2) Laws that restrict or ban the use of ballot drop boxes, or that limit the number of
4 drop boxes solely by county or other geographic or geopolitical area despite variances in population.

5 (3) Laws that do not allow same-day voting at a polling place if a voter goes to the
6 wrong polling location.

7 (4) Laws that limit or ban same-day voter registration on election day.

8 (5) Laws that otherwise limit access to voting by reducing the times, places, or methods
9 by which eligible persons may vote.

10 (6) Laws that prohibit extension of voting hours if election problems arise.

11 **(c) Laws Imposing Restrictive ID Requirements:**

12 (1) Laws that impose strict photographic identification requirements, such as laws
13 requiring state ID for in-person and/or absentee ballots but that do not accept student IDs issued by
14 universities and colleges located in the state.

15 (2) Laws that prevent voters without photo IDs from satisfying an identification
16 requirement in some other manner, such as by submitting a signed and sworn affidavit.

17 (3) Laws that require multiple forms of photo ID to vote.

18 **(d) Laws Restricting Absentee Voting:**

19 (1) Laws that make it more difficult to obtain or cast an absentee ballot by narrowing
20 eligibility for absentee voting.

21 (2) Laws that make the application process for absentee ballots unduly difficult by
22 requiring multiple steps.

23 (3) Laws that unduly limit the time frame for requesting and/or returning absentee
24 ballots.

1 (4) Laws limiting or prohibiting local election departments from mailing absentee
2 ballots or absentee ballot applications to all voters.

3 (5) Laws that remove voters as absentee voters if they failed to vote absentee in two or
4 more consecutive state or federal election cycles.

5 (6) Laws barring persons other than the individual voter or their families from turning
6 in an absentee ballot.

7 **(e) Laws Restricting Elections by Mail:**

8 (1) Laws that prevent mail-in ballots from being counted in a presidential election.

9 (2) Laws that ban pre-paid postage for mail-in ballots.

10 **(f) Laws Restricting Voting by Persons with Disabilities:**

11 (1) Laws that require disabled persons to prove their disability when voting.

12 **(g) Laws Reallocating Responsibility for Processing, Tabulation, or Determination of Votes**

13 **or Results:**

14 (1) Laws that remove the secretary of state from the state election board, or otherwise
15 take away the power of the state's chief elections officer to remedy election problems.

16 (2) Laws that undermine the power of local officials to conduct fair elections.

17 (3) Laws that allow the state legislature to override or disregard local voting returns
18 and declare their own election results.

19
20 **SEC. 12X.24. COVERED STATE LIST.**

21 (a) The City Administrator shall create and maintain the Covered State List. A state shall be
22 included in the Covered State List when, in the judgment of the City Administrator, in consultation with
23 the Director of Elections and the City Attorney, it meets the definition of a Covered State.

24 (b) A state shall be removed from the Covered State List where the law or laws that caused the
25 state to meet the definition of a Covered State have been repealed or found to be unenforceable by a

1 court of competent jurisdiction. A decision to remove a state from the Covered State List shall be made
2 by the City Administrator, in consultation with the Director of Elections and the City Attorney.

3 (c) The Covered State List shall be posted on the website of the City Administrator, and shall be
4 reviewed, and updated as appropriate, by the City Administrator at least semiannually.

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6 **SEC. 12X.25. TRAVEL.**

7 (a) The City shall not:

8 (1) Require any of its employees or officers to travel to a state on the Covered State
9 List; or

10 (2) Approve a request for City-funded travel to a state on the Covered State List.

11 (b) Subsection (a) shall not apply to travel that is:

12 (1) necessary for the enforcement of any state or City law;

13 (2) necessary for the defense of any legal claim against the City;

14 (3) required by law;

15 (4) required to meet contractual obligations incurred by the City; or

16 (5) necessary for the protection of public health, welfare, or safety.

17 (c) For purposes of this Section 12X.25, "travel" does not include landing in a state by plane
18 to make a connecting flight to a destination outside that state, or traversing a state by automobile,
19 train, bus, or otherwise, to reach a destination outside that state.

20
21 **SEC. 12X.26. CONTRACTING.**

22 (a) The City shall not enter into any Contract with a Contractor that has its United States
23 headquarters in a state on the Covered State List or where any or all of the work on the Contract will
24 be performed in a state on the Covered State List. Notwithstanding the foregoing sentence, if, during
25 the term of a Contract, the Contractor moves its headquarters, or the location from which it will

1 provide services to the City, to a state on the Covered State List, such a move shall not constitute
2 grounds to terminate the Contract.

3 (b) Nonapplicability, Exceptions, and Waivers. Subsection (a) shall not apply to Contracts in
4 the following circumstances:

5 (1) The Contracting Department determines that needed services under the applicable
6 Contract are available only from one source pursuant to applicable provisions of the Administrative
7 Code; or

8 (2) The Contracting Department determines, pursuant to applicable provisions of the
9 Administrative Code, that the Contract is necessary to respond to an emergency which endangers the
10 public health or safety; and no entity that complies with subsection (a) and is capable of responding to
11 the emergency is immediately available to perform the required services; or

12 (3) The Contracting Department determines that there are no qualified responsive
13 bidders or prospective vendors that comply with the requirements of subsection (a); and the Contract is
14 for a service, project, or property that is essential to the City or the public; or

15 (4) The Contracting Department determines that the public interest warrants the
16 granting of a waiver because application of this Section 12X.26 would have an adverse impact on
17 services or a substantial adverse financial impact on the City; or

18 (5) The Contracting Department determines that the services to be purchased are
19 available under a bulk purchasing arrangement with a federal, state, or local governmental entity or a
20 group purchasing organization; purchase under such arrangement will substantially reduce the City's
21 cost of purchasing such services; and purchase under such an arrangement is in the best interest of the
22 City; or

23 (6) The Contracting Department determines that the requirements of this
24 Section 12X.26 will violate or are inconsistent with the terms or conditions of a grant, subvention, or
25 agreement with a public agency or the instructions of an authorized representative of any such agency

1 with respect to any such grant, subvention, or agreement, provided that the contracting officer has
2 made a good faith attempt to change the terms or conditions of any such grant, subvention, or
3 agreement to authorize application of this Section; or

4 (7) The General Manager of the Public Utilities Commission may waive the
5 requirements of this Section 12X.26 where the Contractor is providing wholesale or bulk water, power,
6 or natural gas, the conveyance or transmission of same, or ancillary services such as spinning reserve,
7 voltage control, or loading scheduling, as required for assuring reliable services in accordance with
8 good utility practice, to or on behalf of the San Francisco Public Utilities Commission; provided that
9 the purchase of same may not practically be accomplished through the City's standard competitive
10 bidding procedures; and further provided that this waiver provision shall not apply to Contractors or
11 franchisees providing direct, retail services to end users within the City.

12 (c) For any determination of nonapplicability, exception, or waiver pursuant to subsection (b),
13 the Contracting Department shall maintain a record documenting the basis for such decision. Each
14 Contracting Department that makes a determination of nonapplicability, exception, or waiver pursuant
15 to subsection (b) shall submit a report to the City Administrator summarizing the Contract and the
16 basis for inapplicability. Such reports shall be submitted annually within 30 days of the end of the
17 fiscal year.

18 (d) The requirements of this Section 12X.26 shall apply to Contracts first advertised, solicited,
19 or initiated on or after the ~~O~~perative ~~D~~ate.

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21 **SEC. 12X.27. RULES AND REGULATIONS; REPORTING.**

22 (a) The City Administrator may adopt rules, regulations, and guidelines to implement this
23 Article III of Chapter 12X.

24 (b) By January 1, 2023, the Controller shall conduct an evaluation and submit a report to the
25 Board of Supervisors regarding the economic impact of this Article III of Chapter 12X on the City.

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SEC. 12X.28. PREEMPTION.

Nothing in this Article III, Chapter 12X shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or State of California law. In Contracts that involve the use of any funds furnished, given, or loaned by the Government of the United States or the State of California, all laws, rules, and regulations of the United States or California or of any federal or State departments relative to the performance of such work and the conditions under which the work is to be performed, shall prevail over the requirements of this Article III, Chapter 12X when such laws, rules, or regulations are in conflict.

SEC. 12X.29. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Article III, Chapter 12X, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

SEC. 12X.30. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Article III, Chapter 12X, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Article or Chapter. The Board of Supervisors hereby declares that it would have passed this Article and Chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion this Article or Chapter or application thereof would be subsequently declared invalid or unconstitutional.

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Section 2. Effective and Operative Dates.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor’s veto of the ordinance.

(b) ~~As stated in Section 12X.22 of the Administrative Code, this~~ This ordinance shall become operative ~~on December 1, 2021, or on the effective date of this ordinance, whichever is later~~ 90 days after the effective date.

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

By: /s/ _____
LISA POWELL
Deputy City Attorney

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