

## City Council Staff Report

Meeting Date: February 23, 2026

Report To: Susan Arntz, City Manager  
Report From: Pamela Whitmore, City Attorney  
Agenda Item: Proposed Emergency Ordinance clarifying requirements for law enforcement agencies and officers within the city.

---

### Summary of the Ordinance

This ordinance responds to the City Council's directive to explore options for the Council to mitigate safety concerns raised by the community and address diminished community trust arising from recent federal immigration enforcement actions in Mankato. The ordinance:

- requires law enforcement agencies of any jurisdiction to notify the City Department of Public Safety when that agency operates within the City and provides that, where possible, that notification should be made in advance.
- requires law enforcement agencies of any jurisdiction to ensure that agency's personnel wear and use a body camera in the same manner as required by its own jurisdiction or in alignment with the City Department of Public Safety's policy.
- prohibits law enforcement personnel from wearing a mask or other method of concealing their facial identity in the course of their duties and while engaging in law enforcement activities within the City.
- requires law enforcement personnel to identify themselves upon request.

### Considerations of Risk for Council

1. *What legal authority does the Council have to adopt an emergency ordinance?*

Section 2.15 of the City of Mankato, City Charter authorizes the Council to adopt emergency ordinances to "meet a public emergency affecting life, health, property or the public peace". An emergency ordinance is introduced in the form and manner prescribed for ordinances, except it is plainly designated as an emergency ordinance. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and may be passed only by an *affirmative vote of at least five members*. After adoption, the ordinance becomes effective either upon adoption or at such later time as Council specifies<sup>1</sup>. The Charter provides an automatic adoption stating that the ordinance

---

<sup>1</sup> After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.

repeals on the 61st day after its adoption but allows for an extension if the emergency still exists.<sup>2</sup>

## *2. What legal authority does the City have to regulate other law enforcement agencies?*

Certainly, under its police power, the City has authority to establish ordinances intended to protect the health, welfare and safety of individuals within its jurisdiction and which neither conflict with other general relevant laws nor are preempted by state or federal laws. Preemption represents a legal principle where a *higher level of government* (usually the state or federal government) has the authority to limit, override, or invalidate laws created by a *lower level of government* (such as cities). Alongside preemption and arising from the Supremacy Clause, the intergovernmental immunity doctrine prevents states and localities from directly regulating, controlling, or discriminating against the federal government engaging in federal duties to ensure that federal operations remain free from state interference. Courts have identified that “the key question” on the regulation prong is whether state or local law seeks to improperly ‘control’ the employee’s federal duties, or whether the law only ‘might affect incidentally the mode of carrying out the employment’.

Recently, the federal government<sup>3</sup> sued the State of California over regulating masking, (citing the intergovernmental immunity doctrine). The Court partly granted the federal government’s motion, directing California to halt enforcement of its new facial-covering law because it discriminated by applying to local and federal officers but not state law enforcement<sup>4</sup>. The Court upheld the portion of the law that required officers to identify themselves by name or badge number<sup>5</sup> since that provision applied to all law enforcement - state, local, and federal. Also worth noting is the Court’s recognition that the State’s police powers authorized the State to adopt these regulations. One of the questions the California court analyzed in its review was whether the state law “interfered with or controlled the operations of the federal government.” The Court, in its opinion, found that the federal government had not demonstrated that “masking

---

<sup>2</sup> Council may also choose to repeal the ordinance before it automatically repeals.

<sup>3</sup> See *United States v. State of California*, 2:25-cv-10999, (C.D. Cal.). The United States argued the provisions violate the Supremacy Clause and the intergovernmental immunity doctrine by impermissibly regulating the federal government. And it argues in the alternative that the No Secret Police Act discriminates against the federal government because it does not apply to California law enforcement agencies.

<sup>4</sup> The court explained that the discriminatory burden under the intergovernmental immunity doctrine is distinct from the inquiry into whether a state law directly regulates the federal government. Although the Act does not single out the federal government as it also applies to local governments and governments of other states, it exempts state law enforcement officers. The court rejected California’s argument that its state law enforcement officers were not similarly situated to federal law enforcement officers. The court therefore found the federal government had met its burden that the facial coverings provision discriminated against the federal government in violation of the Supremacy Clause.

<sup>5</sup> Note, the California law lists certain circumstances which create an exception (e.g., undercover operations).

and identification were so essential to federal law enforcement operations that state regulations in those areas directly interfered with or controlled federal law enforcement functions.”<sup>6</sup>.

Following the court’s reasoning in the California case<sup>7</sup>, the emergency ordinance’s notification and identification requirements represent general conduct rules adopted under the City’s police powers and likely would be viewed by a court as imposing only incidental effects on how outside law enforcement agencies perform their duties. At the same time, no clear precedent exists in Minnesota or the Eighth Circuit confirming whether such requirements are permissible or not permissible. It also is unclear how a court would evaluate a requirement that outside law enforcement agencies wear body cameras while operating in the City. However, the draft ordinance’s limitation—applying the requirement only when an agency’s own jurisdiction already uses body cameras and only in accordance with that agency’s existing policies—likely reduces the risk of legal challenge. Distinct from the others, specific legal authority does exist in state law supporting the anti-masking provision desired. Minn. Stat. §609 clearly prohibits masking, with some exemptions. However, as became evident from the finding in the California case, the ordinance must apply uniformly to all law enforcement and not single out or exclude one arm or jurisdiction of law enforcement.

### *3. Has the federal government sued other Cities?*

Yes, the federal government, through the Department of Justice (“DOJ”), has brought lawsuits against cities, as well as some states, to pursue preventing these type of regulations being applied against its agencies and personnel. The California case discussed above represents one example. Specific to Minnesota, in September 2025, the DOJ filed a lawsuit against the State of Minnesota, the City of Minneapolis, the City of St. Paul, Hennepin County, Minnesota Attorney General Keith Ellison, and Hennepin County Sheriff Dawanna S. Witt, alleging interference with the federal government’s enforcement of its immigration laws (“Minnesota lawsuit”). The allegations in the Minnesota lawsuit mirror claims in lawsuits brought by the DOJ against other cities and states across the country, including Boston, New York City, Rochester, New York, New Jersey, Colorado, and Los Angeles.<sup>8</sup> As part of the Minnesota lawsuit, the Department of Justice also subpoenaed Governor Walz and Mayor Frey, among others. These subpoenas make up a part of the grand jury investigation into whether state and local officials “obstructed or impeded” federal immigration enforcement, with the DOJ relying on 18 U.S.C. § 372 (conspiracy to impede federal officers) as the investigation’s basis.

---

<sup>6</sup> Rather, the court likened the masking and identification requirements to traffic laws that federal officers must obey when operating a vehicle on state roads.

<sup>7</sup> Council should be aware that decisions from a federal district court in California are not precedential in Minnesota but are informative.

<sup>8</sup> The DOJ has had limited success to date in filed lawsuits. Most cases currently remain unresolved.

The Department of Justice also issued a memo instructing prosecutors to investigate and, if necessary, criminally prosecute local jurisdiction misconduct, including elected and appointed officials for obstructing federal immigration enforcement or for conspiring to impede federal officers.<sup>9</sup> Although the DOJ issued the subpoena referenced above, to date, no documented case of the DOJ successfully prosecuting any state or local official for impeding federal immigration enforcement exists.

4. *Are there concerns regarding the enforceability of this Ordinance?*

Practically, challenges exist for local public safety officers to enforce this ordinance. If the federal government or another local authority (i) opts to not inform the City of ongoing operations within it, (ii) does not choose to wear or use of body cameras, (iii) violates the masking prohibition, or (iv) refuses to identify themselves upon request, the City has little immediate recourse beyond requesting compliance or issuing a misdemeanor citation as allowed under city charter for violations of ordinances (See, Mankato City Charter, Sec. 1-8).<sup>10</sup> It seems plausible that these enforcement challenges may frustrate onlookers or observers. In other jurisdictions, this has led to more visible confrontations and more escalation.

5. *Potential to impact federal funding and draw federal attention.*

Finally, by adopting this type of ordinance, the City increases the risk of losing federal funding associated with any number of grants. The federal government has asserted that it will decline to provide federal funding to local governments if it determines those organizations have enacted policies or laws that interfere with immigration enforcement efforts. Federal grants associated with immigration or law-enforcement activities are particularly susceptible to long-term consequences, as the government may, in some instances, attach conditions that are sufficiently related to the purposes of those funds. To date, the federal government has not had a lot of success yet in withholding or rescinding funding but has been<sup>11</sup> allowed to award extra “points” to related grant applications from jurisdictions which cooperate with the current federal administration on immigration. However, regardless of this limited success, this administration continues to state it

---

<sup>9</sup> The DOJ cites to the Supremacy Clause which states that the Constitution and established federal laws take priority over any conflicting rules of state law. The DOJ has repeatedly stated that some states, cities, and counties have adopted policies that “interfere with the federal government’s enforcement of immigration laws.”

<sup>10</sup> Officers generally cannot arrest for a misdemeanor unless that misdemeanor has been committed or attempted in the officer’s presence; Minn. Stat. § 629.34. Additionally, Minn. Stat. § 629.31 states an arrest for a misdemeanor may not be made on Sunday or between 10:00 p.m. and 8:00 a.m. on any other day except: (1) when the judge orders in the warrant that the arrest may be made between those hours; or (2) when the person named in the warrant is found on a public highway or street.

<sup>11</sup> Courts have struck down these funding-cut attempts finding those attempts violated the constitutional separation of powers (only Congress controls funding); violated the Spending Clause (conditions must be clear, related, and non-coercive); violated the Tenth Amendment (federal government cannot commandeer local police).

will withhold or not award funding unrelated to immigration or law enforcement to jurisdictions that do not cooperate with it on immigration. While these decision have a higher chance of being overturned, the City may need to be prepared to go without those funds for some time and potentially litigate that decision.

Additionally, the federal government's immigration enforcement actions generally have targeted jurisdictions it views as "sanctuary" jurisdictions, from L.A. to Chicago to Minneapolis generally. The administration may decide to put greater focus on the City as a result of adopting this ordinance in part as retaliation and in order to dissuade other jurisdictions from adopting similar ordinances. Similarly, the federal administration appears to subject cities that adopt same or similar ordinances to an I-9 audit. An I-9 audit constitutes a review conducted by ICE to ensure that an employer is following federal laws requiring verification of the identity and work authorization of individuals hired in the United States. Federal authorities begin the audit by serving the employer with a written Notice of Inspection, giving the employer three (3) business days to gather and produce I-9 forms and related documents. Cities must comply with these audits. The City has proactively been reviewing its I-9 forms.

### **Conclusion**

The above provides an overview of the emergency ordinance, as drafted. As a reminder, the Council can adopt this emergency ordinance with or without amendment or may reject its introduction. If adopted, however, the Council must do so by an *affirmative vote of at least five members*. After adoption, the ordinance becomes effective either upon adoption or at such later time as the Council specifies. Because it represents an emergency ordinance, the Charter provides for an automatic repealer of sixty days stating that the ordinance repeals the "61st day following the date on which it was adopted" but allows for extension if the Council determines the emergency still exists. Council may also choose to repeal the ordinance before it automatically repeals. Finally, Council could decide to direct staff to take action to draft a permanent ordinance.

### *Plain Language Summary of Federal Laws Cited in Ordinance & Staff Memo*

1. 18 U.S.C. § 1373 is a federal law regarding state and local government responsibilities related to immigration and that those entities cannot refuse to share or prohibit their employees from sharing information about a person's immigration or citizenship **status** with federal immigration authorities. It does not require local agencies to collect this information, and it does not force them to enforce federal immigration laws. So the statute does not mandate local involvement in federal immigration enforcement.
2. 18 U.S.C. § 372 makes it a federal crime for two or more people to work together to threaten, intimidate, or use force to stop a federal officer from taking or performing their job. Anyone involved in such a conspiracy can face fines or up to six years in prison. In short, the statute protects federal officers from coordinated threats or interference while doing their jobs.
3. 8 U.S.C. § 1103 lists the powers and duties of the Secretary of Homeland Security and the Attorney General and establishes federal authority to enforce immigration laws.
4. The Supremacy Clause is a part of the U.S. Constitution and makes clear that federal law is the highest law in the country. This means that if a state law and a federal law directly conflict, the federal law applies. States cannot pass laws that directly contradict the Constitution or established federal laws and judges in every state must follow federal law, even if their state laws say something different. The Supremacy Clause ensures the United States operates under one unified legal system for what Congress (or the Constitution) has determined are federal issues.
5. Intergovernmental immunity means that the federal and state governments cannot interfere with each other's essential functions. States cannot target or control federal agencies or discriminate against federal operations, and the federal government cannot force states to carry out federal programs. It protects both sides so each can do its job independently. Courts have held that regulations must apply equally.
6. The 10<sup>th</sup> Amendment protects state authority and makes clear that any powers not given to the federal government by the Constitution or existing federal laws belong to the states or the people. In practice, this means the federal government cannot force states to carry out federal programs or enforce federal laws—this is called the anti-commandeering rule. States can choose to cooperate with federal policies, but they cannot be required to. The Amendment helps maintain the balance of the federal system by keeping states independent while still allowing federal law to remain supreme within its proper scope.