

ORDINANCE

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AN ORDINANCE AMENDING CHAPTER 17 (“HUMAN RELATIONS, HOUSING AND EMPLOYMENT”) OF THE CITY OF PEORIA CODE BY ADDING A NEW ARTICLE 4 (“WELCOMING CITY”)

WHEREAS, the City of Peoria (“City”) welcomes diversity and believes that all individuals living in or visiting the City should be treated fairly and with respect and dignity the City Council wishes to further enhance the City's relationship with immigrant communities and make the City of Peoria an immigrant-friendly City; and

WHEREAS, this Ordinance discourages unlawful discrimination and strongly supports the equal treatment of all individuals regardless of national origin; and

WHEREAS, the City Council finds that achieving and maintaining a community that treats documented and undocumented immigrants with respect and dignity is in line with the public policy of the City and the principles upon which the United States was founded; and

WHEREAS, this Ordinance will promote the general welfare of City residents and visitors alike; and

WHEREAS, the validity of the City as an ethnically, racially and religiously diverse City in the State of Illinois, is built, in part, on the strength of its immigrant communities in the City; and

WHEREAS, the City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City' goals of protecting life and property, preventing crime and resolving problems; and

WHEREAS, immigrant community members, whether documented citizens or not, should be treated with respect and dignity by all City employees and should not be subjected to physical abuse, threats, or intimidation; and

WHEREAS, one of the City's most important goals is to enhance the City's relationship with the immigrant communities; and

WHEREAS, due to the City's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of the immigrant communities; and to effectuate the City's goals, the City Council finds that there is a need to clarify the communications and enforcement relationship between the City and the federal government and to clarify what specific conduct by City employees is prohibited because such conduct significantly harms the City's relationship with immigrant communities; and

WHEREAS, the purpose of this Ordinance is to establish the City's procedures concerning immigration status and enforcement of federal civil immigration laws and to identify conduct in which City employees may not engage when interacting with community members; and

WHEREAS, Article VII, Section 6(a) of the Illinois Constitution of 1970, provides that the “powers and functions of home rule units shall be construed liberally,” and written “with the intention that home rule units be given the broadest powers possible,” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992), and this Ordinance is adopted pursuant to such authority.

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Peoria , Peoria County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as fully set forth.

Section 2. City Code Amended. A new Article 3 (“Welcoming City”) is hereby added to Chapter 17 (“Human Relations, Housing and Employment”) of the City of Peoria Code as follows:

Article IV

Welcoming City

17-146: DEFINITIONS:

17-147: REQUESTING INFORMATION PROHIBITED:

17-148: THREATS BASED ON CITIZENSHIP OR IMMIGRATION STATUS PROHIBITED:

17-149: CONDITIONING BENEFITS, SERVICES OR OPPORTUNITIES ON IMMIGRATION STATUS PROHIBITED:

17-150: CIVIL IMMIGRATION ENFORCEMENT ACTIONS – FEDERAL RESPONSIBILITY:

17-151: CERTIFICATION FOR VICTIMS OF CERTAIN CRIMINAL ACTIVITY:

17-152: FEDERAL REGISTRY PROGRAMS

17-153: INFORMATION REGARDING CITIZENSHIP OR IMMIGRATION STATUS:

17-154: NO PRIVATE CAUSE OF ACTION:

17-146: DEFINITIONS:

The following terms wherever used in this article shall have the following meanings unless a different meaning appears from the context:

ADMINISTRATIVE WARRANT: An immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other documents, issued by ICE that can form the basis for an individual’s arrest or detention for a civil immigration enforcement purpose. This definition does not include any criminal warrants issued upon a judicial determination of probable cause and in compliance with the requirements of the Fourth Amendment to the United States Constitution and Article 1, Section 6 of the Illinois Constitution.

AGENCY: Every City department, division, commission, committee, board, or other body established by authority of an ordinance or City Council resolution.

AGENT: Any person employed by or acting on behalf of an agency.

CERTIFICATION: Any law enforcement certification or statement required by federal immigration law including, but not limited to, the information required by Section 1184(p) of Title 8 of the United States Code (including current United States Citizenship and Immigration Service Form I-918, Supplement B, or any successor forms) for purposes of obtaining a U visa, or by Section 1184(o) of Title 8 of the United States Code (including current United States Citizenship and Immigration Service Form I-914, Supplement B, or any successor forms) for purposes of obtaining a T visa.

CERTIFYING AGENCY: a municipal law enforcement agency or other authority that has responsibility for the investigation or prosecution of criminal activity. "Certifying agency" includes any agency that has criminal investigative jurisdiction in its respective areas of expertise.

CITIZENSHIP OR IMMIGRATION STATUS: All matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United States, the time and manner of a person's entry into the United States, or any other immigration matter enforced by the Department of Homeland Security or successor or other federal agency charged with the enforcement of civil immigration laws.

COERCE: To use express or implied threats towards a person or any family member of a person that attempts to put the person in immediate fear of the consequences in order to compel that person to act against his or her will.

CONTACT INFORMATION: Home address, work address, telephone number, electronic mail address, social media contact information, or any other means of contacting an individual.

ELIGIBLE FOR RELEASE FROM CUSTODY: A person that may be released from custody because one of the following conditions has occurred:

- A. All criminal charges against the person have been dropped or dismissed;
- B. The person has been acquitted of all criminal charges filed against him or her;
- C. The person has served all the time required for his or her sentence;
- D. The person has posted a bond; or
- E. The person is otherwise eligible for release under state or local law, or local policy.

ICE: The United States Immigration and Customs Enforcement Agency and shall include any successor agency charged with enforcement of civil immigration laws.

IMMIGRATION DETAINER: A request by ICE to a federal, state or local law enforcement agency to provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued pursuant to Sections 1226 or 1357 of Title 8 of

the United States Code or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainees include but are not limited to DHS Form I-247D “Immigration Detainer – Request for Voluntary Action”; DHS I-247X “Request for Voluntary Transfer”; or DHS Form I- 247N “Request for Voluntary Notification of Release.”

IMMIGRATION ENFORCEMENT OPERATION: Any operation that has as one of its objectives the identification or apprehension of a person or persons: 1) in order to subject them to civil immigration detention, removal proceedings and/or removal from the United States; or 2) to criminally prosecute a person or persons for offenses related to immigration status, including but not limited to violations of Sections 1253, 1304, 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code.

QUALIFYING CRIMINAL ACTIVITY: Any activity involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting (as defined in Section 1351 of Title 18 of the United States Code); or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. This list of qualifying criminal activity is not a list of specific statutory violations, but instead a list of general categories of criminal activity. Activity not listed in the first sentence of this definition shall be presumed to be qualifying criminal activity when there is an articulable similarity to any qualifying criminal activity listed herein. Qualifying criminal activity that occurs during the commission of non-qualifying criminal activity shall be considered qualifying criminal activity regardless of whether criminal prosecution was sought for the qualifying criminal activity.

VERBAL ABUSE: The use of oral or written remarks that are overly insulting, mocking, or belittling, directed at a person based upon the actual or perceived race, color, sex, religion, national origin, English proficiency, sexual orientation, or gender identity of that person, or (2) citizenship or immigration status of that person or that person’s family member.

VICTIM OF QUALIFYING CRIMINAL ACTIVITY: Any individual who has reported qualifying criminal activity to a law enforcement agency or certifying agency, or has otherwise participated in the detection, investigation, or prosecution of qualifying criminal activity, who has suffered direct or proximate harm as a result of the commission of any qualifying criminal activity and may include, but is not limited to, an indirect victim, regardless of the direct victim's immigration or citizenship status, including the spouse, children under 21 years of age, and, if the direct victim is under 21 years of age, deceased, incompetent or incapacitated, parents and unmarried siblings under 18 years of age of the direct victim. A bystander victim may also be considered as a “victim of qualifying criminal activity”. More than one victim may be identified and provided with certification depending upon the circumstances. A “victim of qualifying criminal activity” may also include a victim of a severe form of trafficking in persons as defined in Section 7102 of Title 22 of the United States Code and Section 10-9 of the Illinois Criminal Code of 2012. For

purposes of this definition, the term “incapacitated” means unable to interact with law enforcement agency or certifying agency personnel as a result of a cognitive impairment or other physical limitation, or because of physical restraint or disappearance.

17-147: REQUESTING INFORMATION PROHIBITED:

No agent or agency shall request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any person unless such inquiry or investigation is required by an order of a court of competent jurisdiction. Notwithstanding this provision, the City Attorney or the City Attorney’s designee may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding in which the City is or may be a party.

17-148: THREATS BASED ON CITIZENSHIP OR IMMIGRATION STATUS PROHIBITED:

No agent or agency will coerce, including using threats of deportation, or engage in verbal abuse of any person based upon the person’s or the person’s family member’s actual or perceived citizenship or immigration status.

For purposes of this section, “family member” means a person’s:

1. Mother, father, spouse, brother or sister (including blood, step or half), son or daughter (including blood, step or half), father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent or grandchild;
2. Court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or
3. Domestic partner or the domestic partner’s mother, father, brother, sister (including blood, step, or half), son or daughter (including blood, step or half).

17-149: CONDITIONING BENEFITS, SERVICES, OR OPPORTUNITIES ON IMMIGRATION STATUS PROHIBITED:

A. No agent or agency shall condition the provision of the City benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or an order of a court of competent jurisdiction.

B. Where presentation of an Illinois driver’s license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person’s nation of origin, such as a driver’s license, passport, or consulate-issued document, shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided an Illinois driver’s license or identification card except that this subsection B shall not apply to the completion of federally mandated I-9 forms.

C. All applications, questionnaires, and interview forms used in relation to City benefits, opportunities, or services shall be promptly reviewed by the City and any questions regarding citizenship or immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted and of no force and effect.

17-150: CIVIL IMMIGRATION ENFORCEMENT ACTIONS – FEDERAL RESPONSIBILITY:

A. No agency or agent shall stop, arrest, detain, or continue to detain a person after that person becomes eligible for release from custody or is free to leave an encounter with an agent or agency, based on any of the following:

1. An immigration detainer;
2. An administrative warrant as defined herein (including but limited to entered into the Federal Bureau of Investigation's National Crime Information Center database); or
3. Any other basis that is based solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation.

B. No agency or agent shall be permitted to accept requests by ICE or other agencies to support or assist in any capacity with immigration enforcement operations, including, but not limited to, requests to provide information, other than as provided in Section 17-153 below, on persons who may be the subject of immigration enforcement operations, to establish traffic perimeters, or to otherwise be present to assist or support an operation. In the event an agent receives a request to support or assist in an immigration enforcement operation, he or she shall report the request to his or her supervisor, who shall decline the request and document the declination in an interoffice memorandum to the agency director through the chain of command.

C. No agency or agent shall enter into an agreement under Section 1357(g) of Title 8 of the United States Code or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws.

D. Unless presented with a valid and properly issued criminal warrant, no agency or agent shall:

1. Permit ICE agents access to a person being detained by, or in the custody of, the agency or agent;
2. Transfer any person into ICE custody;
3. Permit ICE agents use of agency facilities, information, other than as provided in Section 17-153 below, or equipment, including any agency electronic databases, for investigative interviews or other investigative purpose or for purposes of executing an immigration enforcement operation; or
4. Expend the time of the agency or agent in responding to ICE inquiries or communicating with ICE regarding a person's custody status, release date, or contact information.

17-151: Certifications for victims of certain criminal activity:

A. A certifying agency shall execute any certification requested by any victim of qualifying criminal activity or representative of the victim including, but not limited to, the victim's attorney, accredited representative, or domestic violence service provider, within 90 days of receiving the request. If the victim seeking certification is in federal immigration removal proceedings, the certifying agency shall execute the certification no later than 14 days after the request is received by the agency. If the victim or the victim's children would lose any benefits under Sections 1184(p) and 1184(o) of Title 8 of the United States Code by virtue of having reached the age of 21 years within 90 days after the certifying agency receives the certification request, the certifying agency shall execute the certification no later than 14 days before the date on which the victim or child would reach the age of 21 years. Requests for expedited certification must be affirmatively raised by the victim.

B. If a certifying agency fails to certify within the time limit prescribed in subsection (a) of this Section, or a victim of qualifying criminal activity disputes the content of a certification, then the victim of qualifying criminal activity may bring an action in circuit court to seek certification or amend the certification. The court shall award court costs and reasonable attorneys' fees to any person who brings a proceeding brought pursuant to this subsection who prevails.

C. The head of each certifying agency shall perform, or designate an agent, who performs a supervisory role within the agency, to perform the following responsibilities:

1. respond to requests for certifications;
2. provide outreach to victims of qualifying criminal activity to inform them of the agency's certification process; and
3. keep written records of all certification requests and responses.

D. All certifying agencies shall implement a language access protocol for non-English speaking victims of qualifying criminal activity.

E. A certifying agency shall reissue any certification within 90 days of receiving a request from the victim of qualifying criminal activity or representative of the victim including, but not limited to, the victim's attorney, accredited representative, or domestic violence service provider.

F. Notwithstanding any other provision of this section, a certifying agency's completion of a certification shall not be considered conclusory evidence that the victim has met eligibility requirements for a U or T visa and completion of a certification by a certifying agency shall not be construed to guarantee that a victim will receive federal immigration relief. It is the exclusive responsibility of federal immigration officials to determine whether a victim of qualifying criminal activity is eligible for a U or T visa. Completion of a certification by a certifying agency merely verifies factual information relevant to the immigration benefit sought including information relevant for

federal immigration officials to determine eligibility for a U or T visa. By completing a certification, the certifying agency attests that the information is true and correct to the best of the certifying official's knowledge. If after completion of a certification, the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim, then the certifying agency may notify the United States Citizenship and Immigration Service in writing.

17-152: FEDERAL REGISTRY PROGRAMS

No agency or agent shall expend any time, facilities, equipment, information, or other resources of the agency or agent to facilitate the creation, publication, or maintenance of any federal program to register individuals present in the United States based on their ancestry, national origin, or religion, or the participation of any City residents in such a registry.

17-153: INFORMATION REGARDING CITIZENSHIP OR IMMIGRATION STATUS:

Nothing in this article prohibits any agency or agent from sending to, or receiving from, any local, state, federal agency, information regarding an individual's citizenship or immigration status. All agents shall be instructed that federal law does not allow such a prohibition. "Information regarding an individual's citizenship or immigration status," for purposes of this section, means a statement of the individual's country of citizenship or a statement of the individual's immigration status.

17-154: NO PRIVATE CAUSE OF ACTION:

This article does not create or form a basis for liability on the part of the City, its agents, or agencies. The exclusive remedy for violation of this article shall be the City's disciplinary procedures for officers and employees.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.