

2003-07-092

Substitute

1ST READING: 2/28/03
REFERRED TO (NAME OF) COMMITTEE: W+M/Budget
PUBLIC HEARING: 5/12 W+M; 6/23 H+HS
2ND READING AND FINAL PASSAGE: 7/11/03

AN ORDINANCE
of the
CITY OF
MINNEAPOLIS

Schiff, Johnson Lee, Lilligren, Niziolek, Samuels, Zerby, Zimmermann presents the following ordinance:

Amending Title 2 of the Minneapolis Code of Ordinances relating to Administration by adding a new Chapter 19 relating to Employee Authority in Immigration Matters.

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 19 to read as follows:

CHAPTER 19. EMPLOYEE AUTHORITY IN IMMIGRATION MATTERS

19.10. Purpose and policy statement. This ordinance clarifies the communication and enforcement relationship between the city and the United States Department of Homeland Security and other federal agencies with respect to the enforcement of civil immigration laws. The city works cooperatively with the Homeland Security, as it does with all state and federal agencies, but the city does not operate its programs for the purpose of enforcing federal immigration laws. The Homeland Security has the legal authority to enforce immigration laws in the United States, in Minnesota and in the city. This ordinance shall be the only regulation within the city on this subject matter, and it shall supersede all conflicting policies, ordinances, rules, procedures and practices.

19.20. General city services. (a) To the extent permitted by law, in determining eligibility for, and providing general city services, city employees shall be governed by the following requirements:

- (1) City employees are to carry out their regular duties for the purpose of administering general city services and programs. Employees may complete I-9 forms, may question a person regarding the I-9 form and documents supporting the I-9 form, and may allow Homeland Security to audit the I-9 forms as allowed by law. Employees shall comply with any properly issued subpoena for the production of documents or witnesses, even if related to immigration issues or issues of the Homeland Security.
- (2) City employees shall follow general city, state and federal guidelines to assess eligibility for services. City employees shall only solicit immigration information or inquire about immigration status when specifically required to do so by law or program guidelines as a condition of eligibility for the service sought. City employees may require evidence of a person's identity and may

ask to see a person's personal identifying documents only when specifically authorized and required to do so by the employee's work duties. City employees shall not discriminate against any current or potential service users on the basis of any of the protected categories listed in the city's civil rights ordinance (139.40), or on the basis of immigration status.

- (3) Other than complying with lawful subpoenas, city employees and representatives shall not use city resources or personnel solely for the purpose of detecting or apprehending persons whose only violation of law is or may be being undocumented, being out of status, or illegally residing in the United States (collectively "undocumented").
- (4) Where presentation of a Minnesota driver's license is customarily 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 matricula consular (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 a Minnesota driver's license. This paragraph does not apply to I-9 forms.

(b) General city services defined. General city services shall mean all city services excepting those services specifically listed as public safety services in section 19.30.

(c) City attorney's office - civil division employees may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding.

19.30. Public safety services. (a) To the extent permitted by law, in providing public safety services, employees of the police and fire departments, and the city attorney's office - criminal division, (collectively, public safety officials), shall be governed by the following requirements:

(1) Public safety officials shall not undertake any law enforcement action for the purpose of detecting the presence of undocumented persons, or to verify immigration status, including but not limited to questioning any person or persons about their immigration status.

(2) City attorney's office - criminal division employees shall be permitted to:

- a. Inform persons of the possible immigration consequences of a guilty plea.
- b. question and conduct cross-examination of a witness or defendant regarding immigration status.
- c. Inquire about immigration status for purposes of bail or conditional release.

d. Investigate and inquire about immigration status when relevant to the potential or actual prosecution of the case or when immigration status is an element of the crime.

e. Take immigration status and collateral effects of possible deportation into consideration during discussions held for the purpose of case resolution.


(3) Public safety officials shall not question, arrest or detain any person for violations of federal civil immigration laws except when immigration status is an element of the crime or when enforcing 8 U.S.C. 1324(c).

(4) Nothing in this ordinance shall prohibit public safety personnel from assisting federal law enforcement officers in the investigation of criminal activity involving individuals present in the United States who may also be in violation of federal civil immigration laws.

(b) All such use of city public safety personnel under 19.30(a)(3) and (a)(4) shall be documented, including any applicable Department of Homeland Security mission statement and operational guidelines, the reason for the dispatch of personnel, the name of the homeland security agent in charge, and the name of the officer authorizing the use of city personnel.

19.40 Complaints and discipline. Complaints of a violation of this ordinance shall be shall be subject to disciplinary action under the appropriate union contract, civil service commission rules, or department work rules. It shall not be a violation of this ordinance to require the completion of I-9 forms or to inquire into or disclose the immigration status of the complainant or witnesses if necessary as part of the investigation of a complaint of a violation of this ordinance, or if deemed necessary by the appointing authority in order to administer discipline for such violations.

19.50. Subpoena. Nothing in this chapter prohibits city employees from responding to a properly issued subpoena.

Certified as an official action of the City Council: 

RECORD OF COUNCIL VOTE (X INDICATES VOTE)													
COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
President Ostrow	X						Goodman	X					
							Lilligren	X					
Zerby	X						Schiff	X					
Samuels	X						Niziolek	X					
Johnson			X				Benson	X					
Johnson Lee	X						Colvin Roy	X					
Zimmermann	X						Lane		X				

PASSED JUL 11 2003
DATE

APPROVED NOT APPROVED VETOED

ATTEST Mary Keefe
CITY-CLERK


MAYOR JUL 11 2003
DATE