

AMENDING CHAPTER 13 OF THE CITY CODE TO ADD A NEW ARTICLE III
STRENGTHENING COMMUNITY TRUST
Revised May 11, 2017

WHEREAS, Fort Collins is a city striving to respect the rights of, and provide equal services to, all individuals regardless of race, ethnicity, or immigration status; and

WHEREAS, Fort Collins is a city striving to promote community safety, protect witnesses and victims, prevent racial profiling and profiling based on immigration status, prevent pretextual arrests, promote tolerance, and allow people to do their jobs; and

WHEREAS, increased incidences of intolerance and hate against immigrants, or those perceived to be immigrants, have raised levels of fear in our non-citizen community members; and

WHEREAS, non-citizen residents of Fort Collins are fearful of contacting law enforcement to report crimes and are hesitating to come forward as victims and witnesses of crimes; and

WHEREAS, our community is safer when all community members have trust in city employees, including law enforcement, and when victims and witnesses of crimes report those crimes; and

WHEREAS, the enforcement of civil immigration laws fall exclusively within the authority of United States Immigration and Customs Enforcement; and

WHEREAS this ordinance does nothing to change or limit Federal immigration enforcement and does not designate Fort Collins a sanctuary city; and

WHEREAS, this ordinance is an effective way to guide city officials and employees in adhering to federal law while protecting the safety and health of all members of the Fort Collins community.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO as follows:

Section 1. That Chapter 13 of the City Code is hereby amended by adding thereto a new Article III to read as follows:

ARTICLE III. DISCRIMINATION BASED ON IMMIGRATION STATUS

Sec. 13-30. Discrimination based on immigration status prohibited.

(a) For the purposes of this section, the term "city employee" shall mean all City of Fort

Collins employees, elected city officials, authorized city volunteers, and members of city boards and commissions.

(b) No city employee shall inquire into the immigration status, citizenship, or country of origin of any person, or engage in activities designed to ascertain the immigration status of any person, while the city employee is acting within the scope of his or her employment with the city. As used in this subsection, "any person" shall include, but not be limited to, victims and witnesses of crime.

(c) No city employee shall stop, question, or detain any individual solely because of the individual's real or perceived national origin, foreign appearance, inability to speak English, suspected immigration status, race, or religion.

(d) No city employee shall use city resources or personnel for the purpose of detecting or apprehending persons whose only violation of law is or may be being an undocumented immigrant, being out of immigration status, illegally residing in the United States, or otherwise assisting in the enforcement of Federal immigration law.

(e) No agent or agency of the city shall disclose information regarding the citizenship or immigration status of any person unless required to do so by legal process, such disclosure has been authorized in writing by the individual to whom such information pertains, or if the individual is a minor or otherwise not legally competent, by the individual's parents or guardian, or unless required by State or Federal law.

(f) The City of Fort Collins shall not perform the work of federal immigration officials and shall not enter into any agreements with immigration enforcement officials pursuant to Section 287(g) of the Immigration and Nationality Act.

(g) To the extent Immigration and Customs Enforcement (ICE) or has been granted access to city facilities, individuals with whom ICE engages will be notified that they are speaking with ICE, and ICE agents shall be required to identify themselves and make their badges visible at all times while in city facilities.

(h) Notwithstanding the prohibitions set forth in subsections (b) through (d) above, the following activities of city employees are expressly permitted and such activities shall not constitute a violation of this section:

- (1) Immigration status information may be solicited when specifically required by any city, state, or federal law or program guidelines as a condition of eligibility for the service sought. City employees are to carry out their regular duties for the purpose of administering general services and programs.

- (2) Immigration status information may be solicited for the purpose of completing I-9 forms, and, when relevant, in making hiring and payroll withholding decisions. City employees may complete I-9 form and documents forms, may question a person regarding the I-9 form and documents supporting the I-9 form, and may allow federal authorities to audit the I-9 forms as allowed by law. City employees shall comply with any properly issued subpoena for the production of documents or witnesses, even if related to immigration issues or other security issues.
- (3) A City employee may ask a person for identification, if such inquiry is reasonably related to the performance of the employee's duties, even if the person's response to the inquiry is to produce immigration status information.
- (4) Immigration status information may be solicited when it is relevant to threatened or actual civil litigation, or administrative proceedings.
- (5) Immigration status information may be solicited of suspects only when it is relevant to the investigation or prosecution of a violation of a criminal statute. For the purposes of this exception, "criminal statute" shall mean a felony or misdemeanor offense as defined by federal, state or local law.
- (6) This ordinance is to be construed in accordance with 8 U.S.C. §1373(a) which provides "Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [ICE] information regarding the citizenship or immigration status, lawful or unlawful, of any individual."
- (7) Fort Collins Police Services shall not engage in, assist, or support immigration enforcement except as follows:
 - To keep the peace while ICE performs their duties when there is an articulable safety concern; or
 - When such services are required to safely execute a criminal warrant or court order issued by a federal or state judge.
 - Sending to ICE, or receiving from ICE, information regarding the citizenship or immigration status of an individual as provided in Paragraph 5.

(i) For the purposes of establishing identity a city employee shall, to the extent permitted by state and federal law*, accept identification in the form of a photo identification in the form of a photo identity document issued by the person's nation of origin, such as a driver's license, passport, or matricula consular, and shall not subject the person to a higher level of scrutiny or

different treatment than if the person had provided a Colorado driver's license. This provision shall not apply when federal, state, or local law requires a higher level of identification.

(j) The City and its employees will serve all residents. City services will be accessible to all residents, regardless of immigration status or county of origin. No department, agency, commission, officer, or employee of the City can withhold services based on several identities, including, but not limited to ancestry, race, ethnicity, national origin, color, age, sex, sexual orientation, gender variance, marital status, physical or mental disability, or religion.

(k) All City agencies that provide direct public services shall ensure meaningful access to such services by taking reasonable steps to develop and implement agency-specific language assistance plans regarding persons with limited English proficiency (LEP).

(l) Upon the request of the person being questioned, a City employee who is lawfully questioning a person about the person's immigration status shall provide the person with the reasons for requesting such information.

Section 2. The implementation and evaluation of this ordinance will take place in the following manner:

(a) The City Manager shall implement an ongoing training and educational program to inform city employees and members of the community regarding the requirements of this Ordinance.

(b) The City Manager shall charge an existing city department with the duty of receiving reports of violations of this ordinance. The Human Relations Commission shall also receive such reports.

(c) Information regarding methods to report violations of this ordinance shall be posted in all city facilities.

*See, for example, section 24-72-1-101, et seq., Colorado Revised Statutes, regarding identification required in the provision of city services and in the issuance of city licenses, permits, and official documents.