

156-O-16

AN ORDINANCE

**Amending Title 1 of the Evanston City Code to Add Chapter 21 to
Codify Evanston as a “Welcoming City”**

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS THAT:**

SECTION 1: Legislative Statement.

The City of Evanston welcomes diversity and believes that all individuals living in or visiting the City of Evanston 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 Evanston an immigrant-friendly City. This Ordinance discourages unlawful discrimination and strongly supports the equal treatment of all individuals regardless of national origin.

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. This Ordinance will promote the general welfare of City of Evanston residents and visitors alike.

Article VII, Section (6)a of the Illinois Constitution of 1970, states 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). Pursuant to 65 ILCS 5/1-2-1, the City may make all rules

and regulations to carry out powers granted to the City, which are broad complementing the City's home rule powers. At meetings held in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), the City Council considered this Ordinance, heard public comment, and made findings. It is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid (*see Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747(1991)) and is not subject to courtroom fact-finding (*see National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124 (1995)).

SECTION 2: Title 1 of the Evanston City Code of 2012, is hereby amended to add Chapter 21, *Welcoming City Ordinance*, which shall read as follows:

CHAPTER 21 – WELCOMING CITY ORDINANCE

1-21-1: SHORT TITLE.

This Chapter shall be known and may be cited as the EVANSTON WELCOMING CITY ORDINANCE.

1-21-2: PURPOSE.

The vitality of the City of Evanston (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. The City Council finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of protecting life and property, preventing crime and resolving problems. Furthermore, 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. One of the City's most important goals is to enhance the City's relationship with the immigrant communities.

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. The purpose of this Chapter is to establish the City's

procedures concerning immigration status and enforcement of federal civil immigration laws and to identify the conduct that City employees may not engage in when interacting with community members.

1-21-3: CONSTRUCTION.

This Chapter shall be construed according to the fair import of its terms and shall be liberally construed to further the purposes and policy stated in this Section and the special purpose of the particular provision involved.

1-21-4: SEVERABILITY.

If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, the remainder of this Chapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

1-21-5: DEFINITIONS.

For the purposes of this Chapter, the following terms shall have the following meanings:

ADMINISTRATIVE WARRANT	Any document 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 warrant issued upon a judicial determination of probable cause, and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution and Article I, Section 6 of the Illinois Constitution.
AGENCY	Every City department, division, council, 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 the City of Evanston.
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.
COERCION	The use of improper or unlawful force or threats, express or implied, in order to compel a person to act against his or her will. Coercion also includes compelling a person to make statements.

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.
VERBAL ABUSE	The use of oral or written remarks that are overtly insulting, mocking, or belittling, directed at a person based upon the actual or perceived race, immigration status, color, ancestry, or national origin.

1-21-6: 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 Illinois State Statute, federal regulation, or court decision. Notwithstanding this provision, the Corporation Counsel 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.

1-21-7: THREATS BASED ON CITIZENSHIP OR IMMIGRATION STATUS PROHIBITED.

No agent or agency will coerce, including improper or unlawful threats of deportation, or engage in verbal abuse of any person based upon the person's or the person's family members' 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; or
2. 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).

1-21-8: DISCLOSING INFORMATION PROHIBITED.

Except as otherwise provided under applicable federal law, no agent or agency shall disclose information regarding the citizenship or immigration status of any person

unless required to do so by legal process or such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or guardian.

1-21-9: CONDITIONING BENEFITS, SERVICES, OR OPPORTUNITIES ON IMMIGRATION STATUS PROHIBITED.

- (A) No agent or agency shall condition the provision of City of Evanston benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.
- (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 the federally mandated I-9 forms.

1-21-10: CIVIL IMMIGRATION ENFORCEMENT ACTIONS – FEDERAL RESPONSIBILITY

- (A) Except for such reasonable time as is necessary to conduct the investigation specified in Subsection (D) of this Section, no agency or agent shall:
 - 1. Arrest, detain or continue to detain a person 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;
 - 2. Arrest, detain, or continue to detain a person based on an administrative warrant entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States, when the administrative warrant is based solely on a violation of a civil immigration law; or
 - 3. Detain, or continue to detain, a person based upon an immigration detainer, when such immigration detainer is based solely on a violation of a civil immigration law.
- (B) Unless an agency or agent is acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, 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. Permit ICE agents use of agency facilities for investigative interviews or other investigative purpose; or

3. While on duty, expend their time responding to ICE inquiries or communicating with ICE regarding a person's custody status or release date.
- (C) An agency or agent is authorized to communicate with ICE in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law.
- (D) This Section shall not apply when an investigation conducted by the agency or agent indicates that the subject of the investigation:
1. Has an outstanding criminal warrant;
 2. Has been convicted of a felony in any court of competent jurisdiction;
 3. Is a defendant in a criminal case in any court of competent jurisdiction where a judgment has not been entered and a felony charge is pending;
or
 4. Has been identified as a known gang member either in a law enforcement agency's database or by his or her own admission.

1-21-11: NO PRIVATE CAUSE OF ACTION.

This Chapter 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 Chapter shall be through the City's disciplinary procedures for officers and employees under regulations including but not limited to this City personnel rules, Code of Ethics, union contracts, or any other City rules and/or regulations. If a complaint is received for a possible violation of this Chapter by a member of the Evanston Police Department, the City Manager shall transmit it to the Evanston Police Department, Office of Professional Standards, for processing and review.

1-21-12: EXCHANGING FILE INFORMATION.

All applications, questionnaires, and interview forms used in relation to City of Evanston benefits, opportunities, or services shall be promptly reviewed by the pertinent agencies and any questions regarding citizenship or immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted within ninety (90) days of the passage of this Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect

without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: The findings and recitals herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 6: Ordinance 156-O-16 shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: November 28, 2016

Approved:

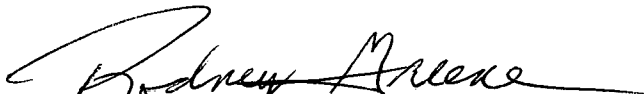
Adopted: December 12, 2016

December 12, 2016


Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:


Rodney Greene, City Clerk


W. Grant Farrar, Corporation Counsel