

## **DES MOINES WELCOMING CITY RESOLUTION**

**WHEREAS**, the United States of America has a proud legacy of providing refuge to those who seek freedom, opportunity, and democracy; and

**WHEREAS**, immigrants are the foundation of this country and have, throughout history, made significant contributions to the economic and social fabric of the nation; and

**WHEREAS**, immigrants make up 4.3 % of the population of Iowa, account for 4.5% of Iowa's economic output, represent 1 in 20 workers, pay an estimated \$64 million in Iowa state and local taxes, [proportion of DSM area children who have at least one immigrant parent], and Des Moines is the most diverse city in the state of Iowa; and

**WHEREAS**, the City of Des Moines devotes resources to law enforcement for the purpose of assuring the safety of all persons who reside in or visit our community; and

**WHEREAS**, fostering a relationship of trust, respect, and open communication among members of the elected officials and local law enforcement and all of the city's residents is essential to the city's mission of delivering efficient public services while ensuring public safety, a prosperous economic environment, opportunities for the youth, and a high quality of life for Des Moines city residents; and

**WHEREAS**, the power to regulate immigration is exclusive to the federal government and the enforcement of immigration law is a function of the federal government that currently resides with Immigration and Customs Enforcement (ICE) of the Department of Homeland Security; and

**WHEREAS**, the conflation of federal civil immigration law enforcement and the local criminal justice system experience in some communities across the nation has resulted in considerable erosion of public safety and undermines the police-community relationships that have been built over the years and undermine the ability of the police to keep community safe; and

**WHEREAS**, it is essential to public safety that every person, regardless of immigration status, who is a victim of or witness to a crime feels comfortable reporting crimes or aiding in the investigation of crimes.

**WHEREAS**, no federal law compels the local police to participate in the enforcement of federal immigration law and any such requirement would raise significant anti-commandeering issues under the Tenth Amendment to the Constitution of the United States; and

**WHEREAS**, the anti-immigrant rhetoric on the federal level of the United States and the anti-immigrant bills being introduced at the Iowa state Capitol do not reflect our values as Iowans; and

**WHEREAS**, Des Moines is committed to fostering diversity, tolerance, and inclusivity in an ever-changing world; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DES MOINES, IN THE STATE OF IOWA:**

**Section 1.** The Des Moines City Council hereby declares Des Moines a welcoming city which values, celebrates and offers refuge to all residents and visitors irrespective of race, religion, ethnicity, national origin, or immigration status.

**Section 2.** The City Council supports the establishment of a municipal task force to provide recommendations and propose a plan to form, at the earliest possible date a Welcoming Des Moines Committee which would collaborate with community stakeholders to provide for an open and continuous conversation on fostering an immigrant friendly city proposing a framework including but not limited to municipal identification cards, Know Your Rights education and the creation of robust language access protocols for all local government agencies.

**Section 3.** The City Council supports the establishment of a public fund to provide legal representation to indigent immigrants in removal proceedings who are residents of Des Moines.

**Section 4.** Except as necessary for public safety as determined by the Police Chief or designee, or as otherwise required by state or federal law, the Des Moines Police Department shall not undertake any law enforcement action for the purpose of detecting the presence of undocumented persons or devote any public resources to the enforcement of federal immigration law.

**Section 5.** No agency or department of the City of Des Moines shall inquire into or collect information on the immigration or citizenship status of any individual.

**Section 6.** Des Moines Police Department and other law enforcement agencies of the city shall not:

- a) Hold for or transfer people to federal immigration agents unless the federal agents provide a judicial warrant for arrest. An immigration detainer (Form I-247, I-247D, I-247N, or I-247X) and an administrative warrant (Form I-200 or I-205) is not a valid constitutional warrant and is not reviewed by a judge, and therefore not a lawful basis to arrest or detain anyone under Iowa law, the U.S. Constitution, or the Iowa Constitution.
- b) Spend city time or resources providing information about a person's criminal case, incarceration status, release date, home or work address, family members, or contact information to federal immigration agents unless required to do so by court order
- c) Enter into any agreements to perform the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.
- d) Participate in joint law enforcement operations that involve civil immigration enforcement.
- e) Use agency or department moneys, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, or national or ethnic origin.
- f) Make agency or department databases or the information contained therein available to anyone or any entity for the purpose of immigration enforcement or investigation or

enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, immigration status, or national or ethnic origin. Any agreements in existence on the date that this chapter becomes operative that make any agency or department database available for purposes prohibited by this paragraph are terminated on that date.

- g) Place local law enforcement officers under the supervision of federal agencies or employ local law enforcement officers deputized as special federal officers or special federal deputies.

**Section 7.** No agency or department of the City of Des Moines shall use federal immigration authorities as interpreters for individuals in police custody or seeking city services.

**Section 8.** This resolution addresses the discretionary use of legal city resources and does not:

- a) Affect or limit the enforcement of federal immigration law by federal authorities within the City of Des Moines;
- b) Affect or limit ICE's Priority Enforcement Program (f/k/a Secure Communities) whereby all fingerprints of adults arrested, or juveniles taken into custody, for a crime other than a simple misdemeanor are automatically included in the federal automated fingerprint identification system and cross checked against the ICE database, such that ICE is notified of the person's and detention in the jail.
- c) Local agencies shall prohibit federal immigration authorities from operating on or gaining physical access to any lands or buildings owned, leased, or controlled by the City/County, by using the following procedure:
  - i. Local agencies shall deny any request or attempt by any federal immigration authorities to access local agency lands or buildings, or obtain information about individuals employed or served by the local agency.
  - ii. Local agencies shall refer federal immigration authorities to the City Attorney's Office/County Counsel.
  - iii. The City Attorney's Office/County Counsel shall only advise local agencies to provide access if federal immigration authorities present a warrant signed by a federal or state judge specifying the persons to be arrested and/or places to be searched.
  - iv. Access shall be strictly limited to the terms of the warrant signed by the federal or state judge.

**Section 9.** Where presentation of a state 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 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 state driver's license or identification card except that this subsection shall not apply to the completion of the federally mandated I-9 forms.

**Section 10.** SEVERABILITY. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**Section 11.** EFFECTIVE DATE This resolution shall become effective upon adoption.

**ADOPTED** this \_\_\_ day of \_\_\_\_, 2017

### **Definitions**

For purposes of this chapter, the following terms have the following meanings:

- a) "Federal immigration authority" means any officer, employee, or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement or United States Customs and Border Protection, or any division thereof, or any other officer, employee, or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with immigration enforcement.
- b) "Local law enforcement agency" means any agency of a city, county, city and county, special district, or other political subdivision of the state that is authorized to enforce criminal statutes, regulations, or local ordinances; or to operate jails or to maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.
- c) "Local agency" means any county or city department, agency, division, commission, council, board or other body in City/County that is authorized to provide services to the residents of City/
- d) County, including by not limited to health facilities, courthouses, and public schools.
- e) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database
- f) "Hold request" means a request from a federal immigration authority asking a local law enforcement agency to maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to federal immigration authorities and includes, but is not limited to, Department of Homeland Security (DHS) Form I-247D.
- g) "Notification request" means a request from a federal immigration authority to a local law enforcement agency asking to be informed of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N.
- h) "Transfer request" means a request from a federal immigration authority to a local law enforcement agency asking that the local law enforcement agency facilitate the transfer of an individual in its custody to the federal immigration authority, and includes, but is not limited to, DHS Form I-247X.
- i) "Judicial warrant" means a warrant based on probable cause and issued by a federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant.
- j) "Health facility" includes hospitals, medical offices, clinics, and substance abuse treatment facilities.

- k) "Immigration enforcement" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States, including, but not limited to, violations of Section 1253, 1324c, 1325, or 1326 of Title 8 of the United States Code.
- l) "Public Schools" means all public elementary and secondary schools.
- m) "School police and security departments" includes police and security departments of public schools.