

Introduced and Read: March 7th, 2017
Second Reading: April 4th, 2017
Third Reading / Vote: May 2nd, 2017

CITY OF MOUNT RAINIER, MARYLAND

Ordinance No. 04-2017

(Drafted by: Councilmember Jesse Christopherson)

**Adopting Chapter 1E, Immigration and Customs Enforcement,
of the Mount Rainier City Code**

WHEREAS, there are gross human rights violations and severe economic conditions in many of the home countries of some of the residents of Mount Rainier that have forced them to leave their countries to protect and provide for their families; and

WHEREAS, there have been calls in the national dialogue for the federal government to establish a registry of Muslim Americans; and

WHEREAS, the City of Mount Rainier has a long tradition of embracing diversity and respecting the civil and human rights of all its residents, regardless of their race, gender, religion, national origin, sexual orientation, gender identity, U.S. citizenship, or immigration status; and

WHEREAS, requiring the registration of individuals because of their religion is unconstitutional and contrary to the values of the City of Mount Rainier; and

WHEREAS, the Mount Rainier Police Department instituted a formal policy of non-enforcement of federal civil immigration laws in 2007 to allow it to use all its resources for the prevention of crime in the City, strengthen its relationship with the City's residents, and improve its effectiveness by encouraging victims of or witnesses to crimes to call for police assistance, report crimes, and cooperate with investigations; and

WHEREAS, the Mayor and City Council wish to reaffirm the City's commitment to respect, protect, and serve all its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MOUNT RAINIER, MARYLAND:

SECTION 1. The Mount Rainier Code shall be amended to include the following:

Chapter 1E, Immigration and Customs Enforcement

Section 1E-10. Purpose.

This Chapter is intended to protect the privacy and promote the civil rights of all residents of the City of Mount Rainier and prevent the use of the City's resources for purposes other than the service and protection of its residents and businesses.

Section 1E-20. Definitions.

The following terms wherever used in this Chapter shall have the following meanings:

“Administrative warrant” means an immigration warrant of arrest, order to detain or release immigrants, notice of custody determination, notice to appear, removal order, warrant of removal, or any other 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 warrants issued upon a judicial determination of probable cause and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution.

“Agency” means every City department, agency, division, commission, council, committee, board, other body, or person established by City law.

“Agent” means any person employed by or acting on behalf of an agency.

“Citizenship or immigration status” means 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.

“Civil immigration enforcement operation” means any operation that has as one of its objectives the identification or apprehension of a person or persons in order to subject them to civil immigration detention, removal proceedings or removal from the United States.

“Coerce” means 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 adverse consequences to compel that person to act against his or her will.

“Contact information” means 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” means that the person may be released from custody because one of the following conditions has occurred:

- (1) All criminal charges against the person have been dropped or dismissed.
- (2) The person has been acquitted of all criminal charges filed against him or her.
- (3) The person has served all the time required for his or her sentence.
- (4) The person has posted a bond.
- (5) The person is otherwise eligible for release under state or local law or policy.

“Family member” means a person's (i) 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 (ii) court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or (iii) domestic partner or the domestic partner's mother, father, brother, sister (including blood, step, or half), son or daughter (including blood, step or half).

“ICE” means United States Immigration and Customs Enforcement and shall include any successor agency charged with the enforcement of civil immigration laws.

“Immigration detainer” means a request by ICE to a federal, state, or local law enforcement agency that requests that the law enforcement agency 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 236 or 287 of the Immigration and Nationality Act or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainers 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.”

“Verbal abuse” means the use of a remark that is overtly insulting, mocking or belittling directed at a person based upon the actual or perceived: (1) 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.

Section 1E-30. Requesting information prohibited.

- (a) Except as provided in paragraph (b) of this section, no agent or agency shall inquire with an individual about his or her citizenship or immigration status.
- (b) This section does not prohibit

(1) inquiries regarding the U.S. citizenship of applicants for positions as sworn law enforcement officers with the Mount Rainier Police Department; or

(2) inquiries regarding the citizenship or immigration status of employees and applicants for employment with the City of Mount Rainier to determine eligibility to work as required by 8 U.S.C. § 1324 et seq.

Section 1E-40. Threats based on citizenship or immigration status prohibited.

No agent or agency shall (a) subject a person to verbal abuse as defined by this Chapter; (b) communicate a threat to deport a person or a person’s family member under circumstances that reasonably tend to produce a fear that the threat will be carried out; or (c) coerce any person based upon the person’s actual or perceived citizenship or immigration status or the actual or perceived citizenship or immigration status of the person’s family member.

Section 1E-50. Conditioning benefits, services, or opportunities on immigrant status prohibited.

- (a) No agent or agency shall condition the provision of City benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by state or federal law or court order.

- (b) Where presentation of a Maryland 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), or by a non-profit organization registered to conduct business in Maryland, 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 Maryland driver's license or identification card except that this subsection (b) shall not apply in connection with the completion of federally-mandated employment forms.

Section 1E-60. Civil immigration enforcement actions – Federal responsibility.

(a) No agency or agent shall:

- (1) arrest, detain, or continue to detain a person based on an immigration detainer, or otherwise comply with an immigration detainer, after that person becomes eligible for release from custody;
- (2) arrest, detain, or continue to detain a person based on an administrative warrant (including but not limited to an administrative warrant entered into the Federal Bureau of Investigation's National Crime Information Center database), or otherwise comply with an administrative warrant after that person becomes eligible for release from custody;
- (3) arrest, detain, or continue to detain a person 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;
- (4) be permitted to accept requests by ICE or other agencies to support or assist in civil immigration enforcement operations, including but not limited to requests to establish traffic perimeters related to immigration enforcement. If an agent receives a request to support or assist in a civil 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 Chief of Police through the chain of command; or
- (5) enter into an agreement under 8 U.S.C. § 1357(g) or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws; or
- (6) use City funds, facilities, property, equipment, personnel, or official time to request information about an investigation 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 court order.

(b) 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) permit ICE agents use of agency facilities, records, or equipment for investigative interviews or other investigative purpose or for purposes of executing a civil immigration enforcement operation; or
- (3) expend their official time or agency resources, including phones, email, and vehicles, responding to ICE inquiries or communicating with ICE regarding a person's custody status, release date, or contact information.

(c) Nothing in this section shall prohibit the Mount Rainier Police Department from responding to an emergency call for assistance to protect the safety of a law enforcement officer.

Section 1E-70. Avoiding Aiding Federal Government in Acts of Discrimination

It is unlawful to use agency or department moneys, facilities, property, equipment, personnel, or official time 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, gender identity, religion, or national or ethnic origin.

Section 1E-80. Exchanging file information.

- (a) All applications, questionnaires, and interview forms used in relation to City 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 law or court order, shall be deleted within 60 days of the effective date of this ordinance.
- (b) A copy of any administrative request received by a City agency from ICE to detain or notify it regarding a person in custody shall be provided to that person in custody.
- (c) City agencies shall report to the Mayor and Council every six months the number of requests received by the City from ICE and how those requests were handled. Upon request from the Mayor or a Councilmember, the City Manager shall direct a City agent or agency to report within 24 hours on all action taken in response to a request from ICE.

Section 1E-90. Compliance with other laws.

Nothing in this Chapter shall prevent an agency or agent from sending to, or receiving from, any local, state, or federal agency information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to 8 U.S.C. §§ 1373 and 1644.

Section 1E-100. Severability

If any provision, clause, section, part, or application of this Chapter to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance. It is hereby declared that the legislative intent is that this Chapter would have been adopted had such invalid provision, clause, section, part or application not been included herein.

SECTION 2. This Ordinance shall be effective immediately.

THIS ORDINANCE IS ADOPTED BY THE COUNCIL OF THE CITY OF MOUNT RAINIER THIS 2nd DAY OF MAY, 2017.

Attest:



Miranda Braatz, City Manager



Malinda Miles, Mayor



Jesse Christopherson, Councilmember Ward 1



Shivali Shah, Councilmember Ward 2