

RECOMMENDED BY:

SUBMITTED BY:

ORDINANCE NO. _____

AN ORDINANCE affirming that the City of Birmingham is a Sanctuary City that welcomes residents and visitors of all backgrounds, and promotes policies that celebrate the City’s diversity and protect the most vulnerable residents of the City while improving public safety, upholding fundamental civil liberties, and benefitting the local economy.

WHEREAS, the vitality of the City of Birmingham is strengthened by strong immigrant, refugee, and religious minority communities, whose economic, social, and cultural contributions have reinforced the vibrancy of the City;

WHEREAS, the City of Birmingham welcomes, honors, and respects the contributions of all of its residents, regardless of race, ethnicity, national origin, religion, immigration status, sexual orientation, gender identity, language ability or disability status;

WHEREAS, the current federal administration has demonstrated an openly hostile stance towards communities on the basis of race, ethnicity, national origin, religion, immigration status, sexual orientation, gender identity, language ability and disability status;

WHEREAS, the City of Birmingham is proud to have served and continue to serve as a cradle of the Civil Rights movement, home to a longstanding tradition of resistance, resilience, and progress which has bent the arc of the City’s history away from racial segregation, inequality, violence, and social strife, and towards justice, peace, inclusion, and equality;

WHEREAS, the City of Birmingham seeks to develop and enact policies protecting vulnerable communities within our City, including immigrants, refugees, religious minorities, LGBTQ people, women, and other populations whose rights may be abrogated or otherwise infringed upon by the unconstitutional misuse of federal power;

WHEREAS, the creation of a national registry based on religion or national origin would violate the City’s core values of religious freedom and tolerance and would sow fear and concern among the City’s residents of Muslim faith or Muslim-majority countries;

WHEREAS, the City of Birmingham seeks to continue to foster trust, respect, cooperation, and open communication between City officials and residents, including law enforcement and City employees, to ensure public safety, effective policing, and the wellbeing of all residents;

WHEREAS, the City of Birmingham is at the national forefront of community policing, as one of six pilot cities for the National Initiative for Building Community Trust and Justice, and is dedicated to reducing implicit bias, enhancing procedural justice, and promoting racial reconciliation;

WHEREAS, the City of Birmingham believes that its law enforcement officers should focus on protecting the safety and security of all residents regardless of immigration status, and thus refuses to allow its officers to be compelled to serve as de facto immigration agents;

WHEREAS, research has shown that undocumented immigrants and individuals living in mixed status households are significantly less likely to contact police officers to report a crime or to voluntarily offer information about a crime, due to the perception of collusion between local law enforcement and federal immigration agents;

WHEREAS, research has shown that crime is statistically significantly lower in sanctuary communities as compared to non-sanctuary communities; and

WHEREAS, the City of Birmingham commits to upholding the treasured civil liberties of all City residents, which apply regardless of immigration status, including the right to be free from unreasonable search and seizure, as provided under the Fourth Amendment of the U.S. Constitution and Article 1, Section 5 of the Alabama Constitution;

WHEREAS, the City of Birmingham commits to exercising its power to ensure the equal protection, treatment and representation of all City residents, in accordance with the Fourteenth Amendment of the U.S. Constitution; and

WHEREAS, due to the City's limited resources, the complexity of immigration laws, and the clear need to foster the trust of and cooperation of all residents in maintaining public order and safety, the City of Birmingham commits to exercising its rights under the Tenth Amendment of the U.S. Constitution to refrain from performing the duties of the federal government to enforce federal immigration law.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Birmingham that:

Section 1.

- A. The enforcement of civil and criminal federal immigration laws falls exclusively within the authority of the federal government. City of Birmingham personnel (hereinafter including City officers, employees, and agents) do not have the legal authority to arrest, detain, investigate or otherwise carry out law enforcement actions against individuals for suspected violations of the federal immigration laws.
- B. The City of Birmingham shall not expend City resources or expose its personnel and the City to a heightened risk of legal liability by participating in federal immigration enforcement, unless authorized by a judicial warrant or required by law. Participation in federal immigration enforcement includes, but is not limited to:
1. Execution of administrative or civil immigration warrants;
 2. Arresting, detaining, transporting, and/or prolonging the detention of any individual for federal immigration violations, unless provided with a criminal warrant supported by a judicial finding of probable cause, signed by a state or federal magistrate;
 3. Participating in joint raids or patrols with federal immigration authorities;
 4. Using federal immigration authorities as interpreters for law enforcement matters;
 5. Permitting federal immigration enforcement officers to enter into or remain within the non-public areas of City facilities, including but not limited to courthouses, schools, detention facilities, probation offices, and public health facilities, for the purposes of enforcing federal civil immigration law;
 6. Giving federal immigration authorities access to an individual in agency or department custody for interviews;
 7. Transferring or transporting an individual to federal immigration authorities;
 8. Providing federal authorities with non-publicly available information about any individual for immigration purposes, other than information regarding the individual's citizenship or immigration status as required by 8 U.S.C. § 1373(a), including by providing access to City databases.

- C. City of Birmingham personnel are expressly prohibited from arresting, detaining, or prolonging the detention of any individual in the custody of a City agency or department based solely on:
1. The belief that the person is not authorized to be present in the United States;
 2. An immigration detainer request (I-247);
 3. A U.S. Immigration and Customs Enforcement (ICE) administrative warrant (I-201);
 4. A report of the existence of an administrative warrant in the Federal Bureau of Investigation's National Crime Information Center (NCIC) database; or
 5. Any other civil warrant or request, written or oral, from federal immigration officials, unless it is accompanied by a criminal warrant signed by a state or federal magistrate.
- D. If City of Birmingham personnel cannot determine whether an ICE warrant is administrative or criminal, he or she shall take all reasonable measures to verify the nature of the outstanding warrant. If the City personnel is unable to promptly determine the nature of an ICE warrant, the individual in custody shall be released and shall not be transferred to ICE custody

Section 2.

The City of Birmingham shall not enter into an agreement with the U.S. Department of Homeland Security (DHS) under Section 287(g) of the federal Immigration and Nationality Act, or in any other way permit DHS/ICE to deputize City law enforcement officers to act as agents of DHS/ICE or to enforce federal immigration law.

Section 3.

- A. The City of Birmingham rejects any attempt to characterize those of the Muslim faith and/or of Middle Eastern or North African descent as enemies of the state based on their religion, ethnicity, or national origin.
- B. Accordingly, the City of Birmingham shall not use City funds, resources, facilities, property, equipment, or personnel to enforce, assist, or cooperate with any unconstitutional or illegal federal program requiring the registration or surveillance of individuals on the basis of race, ethnicity, national origin, religion, or immigration status.

Section 4.

- A. The City of Birmingham seeks to maintain, refine, and develop City policies that support the dignity and wellbeing of all residents.
- B. Accordingly, City of Birmingham officers, employees, and agents shall continue to treat all residents equally, to serve all residents, and to make City services accessible to all residents, regardless of their actual or perceived race, ethnicity, national origin, religion, immigration status, or language ability.
- C. City officers, employees, and agents shall not subject residents to any form of heightened scrutiny, nor question, arrest, interrogate, investigate, detain, or prolong the detention of any individual, based on actual or perceived race, ethnicity, national origin, religion, immigration status, or language ability.

Section 5.

- A. City of Birmingham personnel shall not request information about, or otherwise investigate or assist in the investigation of, the citizenship or immigration status of any person unless such inquiry is required by state or federal law or judicial decision, or necessary to perform nondiscretionary official duties.
- B. City personnel shall make no record of any immigration status information that is inadvertently disclosed to them by any individual in the course of performing their duties, and will treat such immigration status information as confidential and sensitive information.

Section 6.

- A. The City of Birmingham commits to using all legal avenues at its disposal to resist any efforts to impose on the City any immigration, spending, or funding policy that violates the U.S. Constitution and the Laws of the United States.
- B. The City of Birmingham shall continue to protect the rights guaranteed to the City and its residents by the U.S. Constitution and will challenge any unconstitutional policies that threaten the security of its communities.

Section 7.

- A. The City of Birmingham shall establish a community board, composed of community members, which shall be charged with reviewing and assessing the enactment of this ordinance, as well as providing findings and recommendations to the City Council on all matters relating to this ordinance.
- B. The City Council shall meet with the community board at least once yearly, upon request of the community board, to review the community board's findings and recommendations. The City Council will also make itself available, as needed, on an ad hoc basis.
- C. On a quarterly basis, the City Council shall provide the community board with all documentation necessary to assess compliance with the enactment of this ordinance.

Documentation shall include, but not be limited to, the following:

- 1. Evidence of any joint operations between City personnel and federal immigration authorities, including, but not limited to, information regarding:
 - a. A list of joint operations operating in the City and their purposes;
 - b. A copy of any memoranda of understanding or other written agreements between the City or any of its agencies or departments and federal immigration authorities;
 - c. The number of arrests made associated with joint operations for the violation of federal or state crimes; and
 - d. The number of arrests made in association with joint operations for the purpose of immigration enforcement by all participants, including federal law enforcement agencies.
- 2. Evidence of requests for information or prolonged detention of individuals made to the City by federal immigration authorities.
- 3. Evidence of all City responses to requests for information or prolonged detention of individuals made by federal immigration authorities.
- 4. Evidence of the number of individuals who are transferred into the custody of federal immigration authorities and the stated purpose of these transfers.
- 5. Evidence of the presence and operations of federal immigration enforcement officials in City facilities, including courthouses, schools, detention facilities, probation offices, public health facilities, and any other City facility.

- D. All documentation disclosed to the community board shall be deemed as public information.
- E. Any person who alleges a violation of this ordinance may file a written complaint with the community board, which shall investigate the matter and report to the City Council with any findings and recommendations.

Section 8.

- A. The City of Birmingham shall establish a task force to explore the creation of a municipal identification card program that can be used to connect City residents with City services, programs, and benefits, regardless of immigration status, homeless status, gender identity, socioeconomic status, or age.
- B. This task force shall study municipal identification programs enacted by other cities around the country, as well as develop findings and recommendations to present to the City Council and the Mayor of Birmingham.
- C. The task force shall convene its first meeting no later than three (3) months after the date of the enactment of this ordinance, and shall share its preliminary findings and recommendations with the City Council no later than one (1) year from the date of the enactment of this ordinance.

Section 9.

This ordinance does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status of an individual pursuant to Sections 1373 and 1644 of Title 8 of the U.S. Code.

Section 10.

The provisions of this ordinance are severable. If any provision of this ordinance 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.

ADOPTED by the City Council on _____ and approved by the Mayor on
_____.

City Clerk