

ORDINANCE # 2017-02-008

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON RELATING TO CITY POLICY WITH RESPECT TO IMMIGRATION ENFORCEMENT, EQUAL PROTECTION, AND EQUAL PROVISION OF CITY SERVICES REGARDLESS OF IMMIGRATION STATUS AND CREATING A NEW CHAPTER OF THE BELLINGHAM MUNICIPAL CODE REGARDING SUCH MATTERS

WHEREAS, Bellingham welcomes and supports immigrants and refugees from all nationalities, religions, and backgrounds with policies and programs that foster inclusion for all; and

WHEREAS, immigrants, both authorized and unauthorized, contribute significantly to economic growth and cultural vitality in Washington State and locally; and

WHEREAS, the City of Bellingham protects the rights guaranteed to the people by the U.S. Constitution and Washington State Constitution and will challenge any unconstitutional policies that threaten these rights or the security of its residents; and

WHEREAS, the City of Bellingham will not cooperate or assist with any unconstitutional or illegal registration or surveillance programs or any other unconstitutional or illegal laws, rules, or policies, including, but not limited to, those that target those of the Muslim faith or of Middle Eastern descent and rejects any attempts to characterize family, friends, neighbors, and colleagues as enemies of the state based solely on religious or ethnic background; and

WHEREAS, the City of Bellingham will not cooperate or assist with any unconstitutional or illegal registration or surveillance programs or any other unconstitutional or illegal laws, rules, or policies, including, but not limited to, those that target members of our community with unresolved civil or administrative immigration issues; and

WHEREAS, the City of Bellingham affirms the principles of the Tenth Amendment of the U.S. Constitution which limit federal incursion into the powers reserved to the States and which enables municipal entities to have authority and control over their law enforcement resources; and

WHEREAS, the Bellingham Police Department will focus on the safety and security of all our residents regardless of civil immigration status, and the Bellingham City Council refuses to allow Bellingham police officers to be compelled into service as de facto immigration officers. As such, the City will reject any offer from the federal government to enter into a Section 287(g) agreement per the Immigration and Nationality Act:

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN AS FOLLOWS:

Section 1. Declaration. The City of Bellingham City Council hereby declares that the policy of the City of Bellingham is that all people are valued, have inherent liberty interests, and should be afforded dignity and respect regardless of status or identity including race, gender, sexual

orientation, religion, immigration status, or national or ethnic origin. The City Council enacts this ordinance in furtherance of that policy.

Section 2. Chapter Created. There is hereby created a Chapter 2.25 of the Bellingham Municipal Code entitled "Equal Protection and Provision of Services Regardless of Immigration Status" which shall read as follows:

Section 2.25.010 - Findings. The Bellingham City Council finds as follows:

(a) The City of Bellingham is a city of the first class organized under RCW 35.22, Article 11 Section 10 of the Washington State Constitution, and the Charter of the City of Bellingham as amended. Under its police powers, the City may exercise any power and perform any function, unless preempted by state or federal law, relating to its government and affairs, including the power to regulate for the protection and rights of its inhabitants and to maintain authority over its internal resources and policies. To this end, the City has dedicated itself to providing all of its residents fair and equal access to services, opportunities, and protection and to maximize public safety for the entire Bellingham community.

(b) The enforcement of civil and administrative immigration laws is a responsibility of the federal government. Since 2002, matters of immigration law have been handled by the Office of Immigration and Customs Enforcement, a branch of the Department of Homeland Security. Requiring local law enforcement agencies to assist in the enforcement of civil immigration or administrative laws forces local governments to expend their limited resources to perform traditionally federal functions and diminishes the effectiveness of local law enforcement whose mission is to ensure public safety for the entire community. The Bellingham Police Department has adopted policies and practices that ensure equal enforcement of the law and equal service to the public, regardless of immigration status. Such policies and practices are intended to serve the entire community; to recognize the dignity of all persons, regardless of their immigration status; to instill confidence in the Bellingham Police Department; to increase the effectiveness of the department; and to avoid legal exposure associated with improper detentions given the complexity of immigration law. The policies and practices of the Bellingham Police Department related to immigration have been reviewed and revised starting in May 2006 to further these goals.

(c) The goals of this legislation are to affirm and foster trust and cooperation between law enforcement officials and immigrant communities, to heighten crime prevention and public safety, and to reaffirm the City's commitment to equal access to City services, all so that families and persons may continue to be productive members of the Bellingham community. All Bellingham residents should be confident in seeking the assistance of law enforcement, regardless of their civil immigration status and confident in their ability to receive city services without inquiry into their civil immigration status to the fullest extent permitted by law. BMC Chapter 2.25 is intended to be consistent with federal laws regarding communications between local jurisdictions and federal immigration authorities, including but not limited to United States Code Title 8, Section 1373 and shall be interpreted in a manner consistent with such laws.

Section 2.25.020 - Equal Protection. City personnel shall not condition the provision of city services or initiate any enforcement action based on a person's:

- (a) civil or administrative immigration status;
- (b) race, creed, color, national origin, or other protected status as set forth in RCW 49.60; or
- (c) lack of proficiency in speaking the English language.

Section 2.25.030 - Civil Federal Immigration Law. City police officers shall not use any city funds or resources solely to enforce civil or administrative federal immigrations laws. "Enforce," as used in this subsection, includes stopping, questioning, interrogating, investigating, or arresting an individual. Absent a judicial warrant or judicial order, an officer shall not detain or hold any individual solely for the purpose of investigating or enforcing a violation of civil or administrative federal immigration laws or related civil immigration warrant or detainer request, including those identified in the National Crime Information Center database. The Bellingham Police Department shall not conduct sweeps or other enforcement efforts to detain individuals solely on the basis of a violation of federal civil or administrative immigration laws.

Section 2.25.040 - Inquiry into Immigration Status. City police officers shall not request documents relating to a person's civil immigration status or inquire into the immigration status of an individual, including, but not limited to, a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual. The term "documents," as included in this subsection, includes, but is not limited to: passports; immigration registration cards; and work permits.

Section 2.25.050 - Identification Documentation. Except when otherwise required by law, where the City accepts presentation of a state-issued driver's license or identification card 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, which is a consulate-issued document, will be accepted and will not subject the person to a higher level of scrutiny or different treatment than if the person had provided a Washington state driver's license or identification card. This provision shall not apply to the Bellingham Police Department's enforcement of traffic laws, including Title 46 RCW and applicable Bellingham Municipal Code provisions, which require the driver of a vehicle to possess a driver's valid license. However, a request for translation of such a photo identity document to English shall not be deemed as inconsistent with any provision of BMC Chapter 2.25.

Section 2.25.060 - Certain Activity Not Precluded. Nothing in BMC Chapter 2.25 shall be construed to preclude any City police officer or other employee from:

- (a) Participating in cross-designation, task force, deconfliction, or other cooperative efforts with federal law enforcement authorities, including, but not limited to, Customs and Border Protection and Immigration and Customs Enforcement, when such efforts are directed at suspected criminal activity;
- (b) Performing duties in relation to the consolidated 911 operations center (What-Comm) which includes the transfer of 911 calls to the Customs and Border Dispatch Center, when such calls are received from the communities of Blaine, Lynden, and Sumas;
- (c) Confirming identity under RCW 46.20.035 which lists valid forms of identification under state laws related to drivers' licenses and permit requirements;

(d) Providing a liaison function to federal agents, when requested, for the purpose of peacekeeping measures; provided that such function shall not include using city funds or resources to stop, question, interrogate, investigate, or arrest persons based on civil or administrative immigration status;

(e) Engaging in all steps necessary and appropriate to comply with the I-9/E-Verify process for the purpose of employment eligibility as required by federal law;

(f) Engaging in all steps necessary and appropriate to comply with the Public Records Act;

(g) Engaging in all steps necessary and appropriate to participate in the U-Visa process at the request of an individual seeking U-Visa status;

(h) Sharing information regarding the civil immigration status of an individual with any person or agency, when the disclosure has been authorized in writing signed by such person; or

(i) Performing any action that is required by federal or state statute, local law, or court decision or order.

Section 2.25.070 - Administrative Policies. The Bellingham Police Department shall maintain a policy, consistent with the provisions of BMC Chapter 2.25, in its manual and provide training to department personnel regarding the policy. Each department of the City will be responsible for compliance with BMC Chapter 2.25 within its area of duties and responsibilities and in accordance with departmental and city-wide administrative policies and procedures.

Section 2.25.080 - Review of Forms. Unless permitted by BMC Chapter 2.25 or otherwise required by state or federal law or international treaty, all applications, questionnaires and interview forms used in relation to the provision of City benefits, opportunities or services will be promptly reviewed by the responsible city department, and any question requiring disclosure of information related to citizenship or immigration status shall be, in the city department's best judgment, either deleted in its entirety or revised such that the disclosure is no longer required.

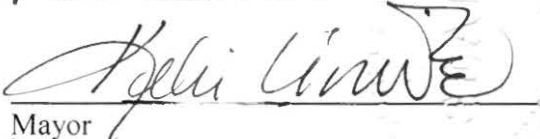
Section 2.25.090 - No Private Right of Action or Special Relationship Created. BMC Chapter 2.25 and its enacting ordinance are adopted in furtherance of the City's general powers related to public health, safety, and welfare and do not create a private right of action or form the basis for liability on the part of the City, its officers, employees or agents. BMC Chapter 2.25 and its enacting ordinance shall not be construed to create any special relationship or any expectation of specific treatment in specific circumstances. BMC Chapter 2.25 and its enacting ordinance shall be interpreted in a manner consistent with RCW 49.60 and is not intended to expand any of the rights, duties, or obligations provided under RCW 49.60.

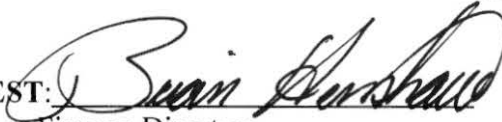
Section 2.25.100 - Severability - Should any section, paragraph, sentence, clause or phrase of BMC Chapter 2.25, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of BMC Chapter 2.25 be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of BMC Chapter 2.25 or its application to other persons or circumstances.

PASSED by the Council this 27th day of March, 2017.

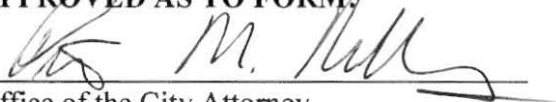

Council President

APPROVED by me this 20th day of March, 2017.


Mayor

ATTEST: 
Finance Director

APPROVED AS TO FORM:


Office of the City Attorney

Published:

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