

Council of the City of York, PA
Session 2024
Bill No.
Ordinance No.

INTRODUCED BY: Edquina Washington

DATE: December 3, 2024

AN ORDINANCE

AN ORDINANCE OF THE CITY OF YORK, PENNSYLVANIA **CREATING ARTICLE 156 “WELCOMING AND ACCESS TO IMMIGRANTS AND REFUGEES”** BY CODIFYING THE CITY’S PRACTICES RELATED TO THE PROVISION OF CITY SERVICES WITHOUT REGARD TO REFUGEE OR IMMIGRATION STATUS AND REQUIRING CITY COUNCIL TO ADVOCATE FOR THE ADOPTION OF SIMILAR PRACTICES AND POLICIES BY OTHER MUNICIPALITIES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT IN ACCORDANCE WITH PENNSYLVANIA LAW.

WHEREAS, the City of York has welcomed immigrants since its founding in 1741; and

WHEREAS, the City of York boasts a diverse community with almost 40 percent of the City’s population identified with a Hispanic heritage, with 11 percent who speak English less than very well; and

WHEREAS, the City of York promotes a culture of inclusion which values diversity, promotes equity and the involvement of all individuals regardless of their backgrounds, identities, perspectives and sexual orientation and has opposed discrimination based on race and national origin for decades, by policy, procedures and by the adoption of Article 185 “Human Relations” of the City of York Codified Ordinances as amended from time to time thereafter; and

WHEREAS, the City strives to ensure that everyone, both employees and the community feel respected, welcomed and empowered to participate in and contribute to the City’s governance and decision making processes; and

WHEREAS, Officials and employees of the City do and are required to treat all persons equally and without regard to race, color, ethnicity, religion, national origin, ancestry, gender, sexual orientation, gender identity, or ability to speak English; and

WHEREAS, the City strives to ensure that everyone, both employees and the community feel respected, welcomed and empowered to participate in and contribute to the City’s governance and decision making processes; and

WHEREAS, the City acknowledges that enforcement of civil federal immigration laws falls exclusively with the authority of the federal government; and

WHEREAS, the City encourages crime reporting and cooperation in the investigation of criminal activity, by working to assure that all persons, regardless of their actual or perceived citizenship or immigration status, feel secure when contacting or being addressed by members of the York City Police Department; and

WHEREAS, the City is committed to ensuring all facets of civic engagement are accessible to all persons; and

WHEREAS, the City is committed to being a diverse community where connections and trust are built collaboratively among residents, local government, businesses, faith communities and non-profits for a unified and strengthened community; and

WHEREAS, the City is committed to non-discrimination in all of its hiring practices; and

WHEREAS, the City desires to be a regional leader in advocating for all municipalities in Pennsylvania to adopt policies and procedures that assure the fair and equitable treatment of all people without regard to their refugee or immigration status; and

WHEREAS, by adoption of this Ordinance, City Council desires to codify the City’s existing practices of providing services without regard to a person’s refugee or immigration status; and

WHEREAS, by adoption of this Ordinance, City Council wishes to legislate requirements that City Council take an active role in advocating that the City’s efforts be expanded regionally.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of York, Pennsylvania that Title Five, Administrative Offices and Departments, is amended to enact Article 156, Welcoming and Access to Immigrants and Refugees, as set forth below, is hereby enacted and codified as follows:

SECTION 1. DEFINITIONS.

Administrative Warrant: A document issued by an immigration enforcement official, including those from the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE) or an administrative immigration judge (IJ), relating to suspected violations of immigration law. The term includes civil administrative warrants, administrative subpoenas, detainer requests, removal orders, database entries (e.g., from the National Crime Information Center) and any similar civil order for the arrest or detention of an individual or for information. An administrative warrant is not a judicial warrant, nor is it a court order.

Citizenship or Immigration Status: Citizenship refers to whether a person is a citizen of the United States (including individuals who hold United States citizenship in addition to citizenship of another country) or is solely a citizen of another country (a “non-citizen”). Immigration status refers to the type of authorization a non-citizen has for their presence in the United States (e.g., lawful permanent resident, conditional permanent resident, visa holder, temporary protected status or undocumented, among other types of status). Perceived citizenship or immigration status refers to characteristics that suggest a person may be a non-citizen or of uncertain immigration status, such as actual or assumed place of birth, country of origin, ancestry, native language, looking or sounding “foreign”, any other national origin indicator or absence of a social security number. These characteristics are separate from, and not included in the term “citizenship or immigration status.”

Court Order: An order entered by a state or federal court, not to include an administrative immigration court.

Household member: A person’s or a member of a person’s: (1) immediate or extended family; (2) domestic partner or partner’s immediate or extended family; (3) foster parent or child or the foster parent/child’s immediate or extended family; (4) court-appointed legal guardian or the person subject to guardianship; or (5) another person who regularly resides in the same residence as the person.

Judicial Warrant: A warrant issued by a state or federal court.

Immigration and Customs Enforcement (ICE): The federal law enforcement agency under the United State Department of Homeland Security (DHS) responsible for enforcement of immigration laws in the interior United States and for representation of the United States in administrative immigration proceedings. This definition shall also encompass any successor agency to ICE.

Immigration Enforcement Official: Any federal employee or agent engaged in immigration enforcement operations including but not limited to agents of ICE, DHS and the United States Department of Justice (DOJ).

Official or Employee: Any person employed by or acting on behalf of the City of York including all members of the York City Police Department.

SECTION 2. NON-INTERVENTION WITH RESPECT TO CITIZENSHIP AND IMMIGRATION.

A. Requesting, Accessing or Disclosing Information Prohibited

1. No official or employee of the City may inquire into an individual's citizenship or immigration status, unless required to do so by federal law, state law, this ordinance, court order or unless such inquiry is reasonably necessary in the course of a criminal investigation.
2. No official or employee of the City shall request, record, or access in government records the citizenship or immigration status of an individual, unless the action is required by state law, federal law, regulation, judicial warrant, court order or subpoena, or unless such inquiry is reasonably necessary in the course of a criminal investigation.
3. No official or employee of the City shall disclose to any person or entity the citizenship or immigration status of an individual, unless the action is required by state or federal law, regulation, warrant, court order, or subpoena, or unless such inquiry is reasonably necessary in the course of a criminal investigation or has been authorized by the individual or their legal guardian.
4. The City shall not retain information related to an individual's citizenship or immigration status, unless required to do so by federal law, state law, this ordinance, or court order unless reasonably required to do so in the course of a criminal investigation. Further, the City shall not provide information to ICE regarding physical location, address or other information that would assist in locating a person for the purposes of civil immigration enforcement unless required by state law, federal law, regulation, warrant, court order or subpoena.
5. Officials or employees of the City shall not utilize City resources (including but not limited to facilities, equipment, cell phones, office supplies, radios, emails, databases and employee time while on-duty) to provide any information to immigration enforcement officials, unless the employee's action is expressly authorized under this Ordinance.
6. Officials or employees shall not provide access to any City facilities, property surrounding any facility, equipment, records or databases or funds not accessible to the public unless mandated by federal or state law or regulation, criminal judicial warrant, court order or subpoena specifying the information or individuals sought.

7. Notwithstanding the foregoing, City officials may, in the hiring/application for employment process, confirm whether an applicant is legally authorized to be employed by the City and/or if they will need an employer sponsor to be or remain lawfully employed.
8. Nothing in this section is intended to prevent the collection and publication of data, other than citizenship and immigration status, useful to program evaluation as long as the underlying data is kept confidential and not disclosed outside the City of York. Nothing herein should be construed to restrict the sharing of de-identified aggregated data outside the City of York.

B. Actions Prohibited Based Upon Citizenship or Immigration Status

1. Officials or employees of the City shall not threaten, coerce, or intimidate anyone based on their citizenship or immigration status, actual or perceived, or the actual or perceived citizenship or immigration status of a member of the person's household.
2. Officials or employees of the City shall not initiate an investigation or take law enforcement action on the basis of actual or perceived citizenship or immigration status, including, but not limited to, the initiation of a stop, apprehension, arrest, or any other field contact.
3. Officials or Employees shall not make inquiries into the citizenship or immigration status of any individual, including those who are not the subject of the law enforcement encounter, except as authorized by this Ordinance.
4. Officials or employees of the City shall not make any threats of immigration actions or consequences as a result of any interaction with law enforcement, including in the context of criminal investigations.
5. A City employee may not act solely because of an individual's citizenship or immigration status, unless with the consent of the individual to pursue a benefit afforded to them under state or federal law or regulation or required by any international treaty.

C. Assistance with Immigration Enforcement

The City shall not engage in, assist, or support immigration enforcement except as follows:

1. In response to an articulated, direct threat to life or public safety.
2. When such services are required to execute a judicial warrant or court order or to comply with a federal or state law.
3. When members of the Police Department are assigned as task force officers to Homeland Security Investigations, they may work with immigration officers while conducting other law enforcement activities related to violations of criminal law. However, under no circumstances shall a City of York Police Department member, or other official or employee, whether assigned to a task force or not, have the authority to enforce administrative violations of immigration law or otherwise assist in the enforcement of civil immigration law.

D. Acceptable Identification

1. Unless required by federal or state law, regulation, or an explicit funding requirement in order to provide public services or benefits, to verify an individual’s identification and address employees of the City shall accept a combination of documents or other information sufficient to reasonably demonstrate the individual’s residence or address, including but not limited to:
 - a. A photo identity document (ID) issued by a state and/or foreign government (such as a driver’s license, passport or consular identification documents) or by a non-profit organization approved by the City.
 - b. Presentation of an alternate form of ID referenced in Section 1(a), above, shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a driver’s license or state identification card.
2. This Section does not apply to completion of federal I-9 forms or similar federal or state forms requiring a specific form of identification or license under defined circumstances.

E. Certification Requests

Nothing in this Ordinance shall prohibit the York City Police Department from approving certification requests for crime victims or witnesses applying for U or T visas, or other benefits.

F. Compliance with Federal Law

This policy is to be construed in accordance with federal law.

G. Complaints Regarding Alleged Violations of this Ordinance

Any person who alleges a violation of Section 2 of Ordinance by an employee or official of the City of York may file a complaint with the York City Office of the Mayor for investigation.

SECTION 3. ADVOCACY REQUIREMENTS.

A. City Council Advocacy Requirements

City Council shall, as part of its annual work, advocate for the adoption of inclusive policies, such as those referenced in this ordinance. Those efforts may include, but may not be limited to:

1. Working collaboratively with the Mayor’s office and the City of York Human Relations Commission on strategic advocacy initiatives to support and encourage work on immigrant inclusion in the City and other local municipalities;
2. Participating in and supporting efforts for advocacy at the state and federal level to promote immigrant and refugee inclusion; and
3. Partnering with other entities and associations to promote and advocate for immigrant and refugee inclusion.

B. Reporting

City Council and City of York Human Relations Commission shall prepare and present annually a report detailing the advocacy efforts it has taken and the progress and results of such advocacy work, including,

but not limited to, the advocacy efforts taken by other entities and associations City Council partnered with for such matters.

SECTION 4. SEVERABILITY.

If any section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect or impair the validity of this Ordinance or Part 5 of the City of York Code of Ordinances as a whole, or any other section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of this Ordinance or Part of the applicable Code. City Council hereby declares that it would have adopted this Ordinance and each section, subsection, phrase and word thereof, irrespective of the fact that any one or more of those sections, subsections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective in accordance with applicable law.

PASSED FINALLY:

BY THE FOLLOWING VOTE:

YEAS: _____, _____, _____, _____, _____

NAYS: _____, _____, _____, _____, _____

Edquina Washington, President of Council

ATTEST:

Dianna L. Thompson, City Clerk

Presented to the Mayor for approval this _____ day of _____ 2024.

APPROVED: _____
Mayor Date

VETOED: _____
Mayor Date