

ORDINANCE NO. 201, SERIES 2017

AN ORDINANCE CREATING A NEW SECTION OF CHAPTER 39 OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT CODE OF ORDINANCES (“LMCO”) RELATING TO EMPLOYEE AUTHORITY IN IMMIGRATION MATTERS. (AMENDMENT BY SUBSTITUTION)

SPONSORED BY: COUNCIL MEMBERS BLACKWELL, COAN, GREEN, HOLLANDER, JAMES, SHANKLIN, WOOLRIDGE, BRYANT HAMILTON, MULVIHILL, BUTLER AND JOHNSON

WHEREAS, Louisville Metro is a city of compassion, a city that embraces our foreign-born neighbors and strives to be welcoming, hospitable and safe; and

WHEREAS, Louisville Metro values our growing immigrant and refugee community and wants to ensure its safety and access to needed resources and city services; and

WHEREAS, the Louisville Metro Police Department’s (“LMPD”) role is to protect and serve all the residents of our community; and

WHEREAS, LMPD works with the community to build relationships that are essential in helping people stay safe and in solving crimes; and

WHEREAS, a broad coalition of police chiefs across the country have taken the position that, “build[ing] trusting and supportive relations with immigrant communities ... is essential to reducing crime and helping victims”; and

WHEREAS, studies have shown statistically that crime is significantly lower in jurisdictions that have adopted policies that promote positive relationships between residents – regardless of their immigration status – and police, showing on average 35.5 fewer crimes per 10,000 people in such jurisdictions, which would correlate to approximately 2,700 fewer crimes in Louisville Metro each year; and

WHEREAS, the Kentucky Center for Investigative Reporting reported that LMPD has been assisting U.S. Customs and Immigration Enforcement to serve local warrants, make traffic stops and knock on the doors of non-violent offenders wanted for immigration offenses; and

WHEREAS, clarity is needed to define local and federal roles, responsibilities, authorities and procedures relating to Metro Government employees in immigration matters.

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: A new section of the Louisville/Jefferson County Metro Government Code of Ordinances ("LMCO") Chapter 39 is hereby created as follows:

(A) *Purpose and policy statement.* This section clarifies the communication and enforcement relationship between Metro Government and the United States Department of Homeland Security ("DHS") and other federal agencies with respect to the enforcement of civil immigration laws. Metro Government is committed to working cooperatively with DHS, as it does with all state and federal agencies. Metro Government respects the role of DHS in enforcing immigration laws in the United States, Kentucky, and Louisville Metro. This section is not intended to limit the proper enforcement of generally applicable laws, but rather to state the policy of Metro Government that all residents are equally entitled to protection, and that all residents should be able to access Metro Government services to which they are entitled, without regard to their immigration status under federal law.

(B) *Public safety services.*

- (1) To the extent permitted by law, in providing public safety services, employees of the Louisville Metro Police Department (“LMPD”), Louisville Metro Department of Corrections (“LMDC”) and other Metro Government peace officers (collectively, “Public Safety Officials”), shall be governed by the following requirements:
- (a) Public safety officials may not undertake any law enforcement action, such as entering into Section 287(g) agreements with U.S. Customs and Immigration Enforcement (“ICE”), for the purpose of detecting the presence of undocumented persons, persons out of status, or persons unlawfully residing in the United States (collectively "undocumented"), or to verify immigration status, including but not limited to questioning any person or persons about their immigration status.
 - (b) Public safety officials may not question, arrest or detain any person for violations of federal civil immigration laws except when immigration status is an element of the crime or when enforcing 8 U.S.C. 1324(c).
 - (c) Nothing in this section shall prohibit public safety officials from investigating criminal activity involving individuals present in the United States who may also be in violation of federal civil immigration laws. Public safety officials may provide support to ICE only when a judicially authorized warrant exists or ICE articulates a reasonable suspicion of a risk of violence or an emergency situation when there is a clear danger to the public.
 - (d) Nothing in this section prohibits public safety officials from adequately identifying criminal suspects or assessing the risk of flight of criminal suspects.

- (e) Where presentation of a state issued identification card or driver's license is customarily 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 consulate-issued document, or of a photo identity document issued by any Kentucky county, should be accepted as adequate evidence to establish identity and should not subject the person to an inquiry into the person's immigration status.
- (2) All such use of Metro public safety officials relating to immigration matters under this section shall be documented, including any applicable DHS mission statement and operational policy or guidelines, the reason for the dispatch of officials, the name of the requesting DHS agent, and the name of the officer authorizing the use of Metro personnel.
- (3) Supervisors of public safety officials shall include information regarding Metro Government's policy and expectations as set forth in this section, in the orientation of new employees and as part of Metro Government's employee on-going in-service training.
- (C) *General Louisville Metro Government services.*
- (1) General Metro Government services defined. General Metro Government services shall mean all Metro Government services excepting those services specifically listed as public safety services in subsection (B) above.
- (2) To the extent permitted by law, in determining eligibility for, and providing general Metro Government services, Metro employees shall be governed by the following requirements:

- (a) Metro employees are to carry out their regular duties for the purpose of administering general Metro Government services and programs. With the exception of inquiries required by law, no Metro officer or employee should inquire into the immigration status of any person or request any documents or information verifying the immigration status of any individual.
- (b) Metro employees shall follow general city, state and federal guidelines to assess eligibility for services. Employees shall only solicit immigration information or inquire about immigration status when specifically required to do so by law or program guidelines as a condition of eligibility for the service sought. Metro employees may require evidence of a person's identity and may ask to see a person's personal identifying documents only when specifically authorized and required to do so by the employee's work duties. The confidentiality of such information shall be maintained to the fullest extent permitted by the laws of the United States and the Commonwealth of Kentucky. Metro employees shall not discriminate against any current or potential service users on the basis of actual or suspected immigration status.
- (c) Metro employees and representatives shall not use Metro Government resources or personnel solely for the purpose of detecting or apprehending persons whose only violation of law is or may be being undocumented.
- (d) Where presentation of a state issued identification card or driver's license is customarily 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 consulate-issued document, or of a photo identity

document issued by any Kentucky county, should be accepted as adequate evidence to establish identity and should not subject the person to an inquiry into the person's immigration status.

- (3) Supervisors of general Metro Government services employees shall include information regarding Metro Government's policy and expectations as set forth in this section in the orientation of new employees and as part of Metro Government's employee on-going in-service training.

(D) *Complaints and discipline.*

- (1) An employee of Metro Government who violates this section may be subject to disciplinary action, such as oral reprimands, written reprimands, suspension without pay, and/or discharge, under the appropriate union contract, civil service commission rules, or department work rules.
- (2) Complaints of a violation by an employee of LMPD or LMDC shall be received and investigated by their respective Professional Standards Unit ("PSU"), except for investigations by the LMPD Public Integrity Unit. Complaints of a violation of this section by an employee of any other Metro Government departments shall be received and investigated by the director of the Human Resources Department ("HR"). The results of any such investigation shall be provided to the complainant in writing within seven (7) days of the completion of the investigation, which shall occur no later than one year after receipt of the complaint absent extraordinary circumstances that require a longer investigation. Complainants and witnesses shall not be asked to provide their immigration status at any point during the complaint process, and no investigation of the immigration status of the complainant

and witnesses shall be made by any Metro Government personnel in the investigation of such a complaint or thereafter.

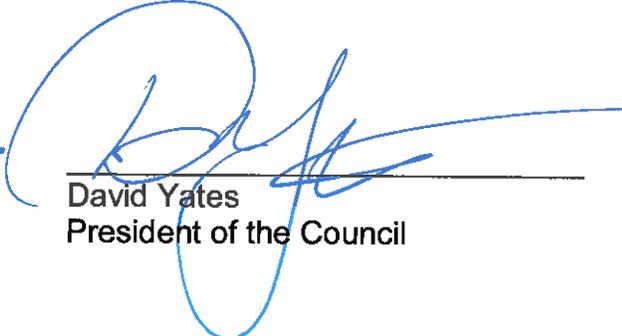
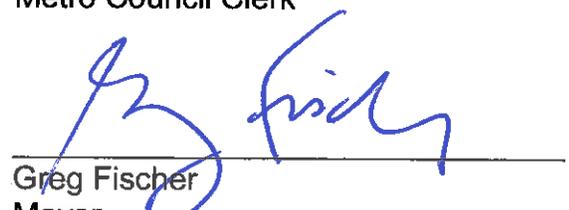
(3) LMPD, LMDC and HR shall prepare and file in April of each year with the Metro Council and the Mayor's Office an annual report and recommendations regarding the implementation of this section.

(E) *Subpoena.* Nothing in this section prohibits Metro Government employees from responding to a properly issued subpoena.

(F) Nothing in this section prohibits Metro Government from sending to, or receiving from, any local, state or federal agency information regarding an individual's citizenship or immigration status. Federal law does not allow any such prohibition.

SECTION II: Severability. If a subsection of this section is found to be invalid for any reason, the remaining subsections of the section shall continue in full force and effect.

SECTION III: This Ordinance shall take effect upon its passage and approval.

 _____ H. Stephen Ott Metro Council Clerk	 _____ David Yates President of the Council
 _____ Greg Fischer Mayor	<u>10/30/2017</u> _____ Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: *Shah J. Martin*

LOUISVILLE METRO COUNCIL
READ AND PASSED
October 26, 2017

O-342-17 Immigration LMCO 39 Amendment by Sub 10-18-17.docx