

SUMMARY

This proposed ordinance amends Chapter 27 of the 1984 Detroit City Code, *Human Rights*, by adding Article IX, *Bias-Based Policing and Solicitation of Immigration Status*, which shall consist of Sections 27-9-1 through 27-9-7, to provide a statement of purpose, to define the terms ‘blight violation’, ‘City’, ‘civil infraction’, ‘criminal offense’, ‘person’, ‘police officer’, and ‘public servant’; to prohibit differential treatment of individuals in the context of rendering police services or taking police action on the basis of appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation; to prohibit solicitation of information on immigration status and to provide exceptions thereto; to provide for the implementation of this article; and to provide for penalties for violation of this article.

1 **BY COUNCIL MEMBER _____:**

2 **AN ORDINANCE** to amend Chapter 27 of the 1984 Detroit City Code, *Human Rights*,
3 by adding Article IX, *Bias-Based Policing and Solicitation of Immigration Status*, which shall
4 consist of Sections 27-9-1 through 27-9-7, to provide a statement of purpose, to define the terms
5 ‘blight violation’, ‘City’, ‘civil infraction’, ‘criminal offense’, ‘person’, ‘police officer’, and
6 ‘public servant’; to prohibit differential treatment of individuals in the context of rendering
7 police services or taking police action on the basis of appearance, ethnicity, immigration status,
8 manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual
9 orientation; to prohibit solicitation of information on immigration status and to provide
10 exceptions thereto; to provide for the implementation of this article; and to provide for penalties
11 for violation of this article.

12 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**
13 **THAT:**

14 **Section 1.** Chapter 27 of the 1984 Detroit City Code, *Human Rights*, be amended by
15 adding Article IX, *Bias-Based Policing and Solicitation of Immigration Status*, which shall
16 consist of Sections 27-9-1 through 27-9-7, to read as follows:

17 **CHAPTER 27. HUMAN RIGHTS**
18 **ARTICLE IX. BIAS-BASED POLICING AND SOLICITATION**
19 **OF IMMIGRATION STATUS**
20

21 **Sec. 27-9-1. Statement of Purpose.**

22 It is the policy of the City of Detroit to respect the rights of, and provide equal services
23 to, all persons regardless of appearance, ethnicity, immigration status, manner of dress, national
24 origin, physical characteristics, race, religious beliefs, or sexual orientation; to ensure the
25 enforcement of rights under the United States Constitution, including due process and equal
26 protection; to promote community safety; to encourage victims of crime and witnesses to

1 cooperate with law enforcement authority without regard to immigration status; to prevent bias-
2 based policing; and to promote acceptance. In order to permit members of immigrant
3 communities to access services that are provided by the City of Detroit government to which
4 they are entitled; and to ensure that City public servants are acting consistent with federal law
5 regarding local governments cooperating with federal immigration authorities, the City of Detroit
6 enacts this article as an effective way to guide City public servants in adhering to rights under the
7 United States Constitution, including due process and equal protection, and under federal law,
8 while protecting the safety and health of all members of the Detroit community.

9 **Sec. 27-9-2. Definitions.**

10 For the purposes of this article, the following words and phrases shall have the meanings
11 respectively ascribed to them by this section:

12 *Blight violation* means any unlawful act, or any omission or failure to act, which is
13 designated by this Code as a blight violation pursuant to Section 4l(2) of the Michigan Home
14 Rule Cities Act, being MCL 117.4l(2).

15 *City* means the City of Detroit.

16 *Civil infraction* means an act or omission that is prohibited by this Code, which is not a
17 crime as defined in Section 5 of the Michigan Penal Code, being MCL 750.5, and for which civil
18 sanctions may be ordered.

19 *Criminal offense* means a felony or misdemeanor as set forth in federal or state law or
20 City ordinance, but does not mean a blight violation or civil infraction.

21 *Person* means any individual including, but not be limited to, victims and witnesses of
22 crimes.

23 *Police officer* means a sworn member of the Detroit Police Department.

24 *Public servant* means the Mayor, members of the City Council, the City Clerk, any
25 member of any City agency, board, commission, or other voting body that is established by the

1 1997 Detroit City Charter or by this Code, and any appointee, any employee, or any individual
2 who provides services to the City of Detroit within or outside of its offices or facilities pursuant
3 to a personal services contract.

Sec. 27-9-3. Bias-based policing by public servants, who are police officers, on the basis of appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation prohibited; exception.

A public servant, who is a police officer, shall not exercise differential treatment of individuals in rendering police services based on a person's appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation. A public servant, who is a police officer, shall not base reasonable suspicion for an investigative detention, probable cause for an arrest, or any other police action, on a person's appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation. A public servant, who is a police officer, may take into account the reported appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation for the purpose of identifying a described individual.

Sec. 27-9-4. Solicitation of immigration status by public servants, who are police officers, prohibited; exceptions.

(a) A public servant, who is a police officer:

- (1) Shall not solicit information concerning immigration status for the purpose of ascertaining a person's compliance with federal immigration law; or
- (2) Shall not solicit information concerning immigration status from a person who is seeking police services, or is a victim, or is a witness.

(b) Notwithstanding the prohibitions set forth in Subsection (a) of this section, public servants, who are police officers, are expressly permitted to engage in the following activities, which shall not constitute a violation of this article:

- (1) Solicitation of information concerning immigration status when performing public safety functions while assisting federal law enforcement in the investigation of a criminal offense; or
- (2) Solicitation of information concerning immigration status from the subject of an investigation only when relevant to the investigation or prosecution of a criminal offense, or when processing an arrested person.

Sec. 27-9-5. Solicitation of immigration status by public servants prohibited; exceptions.

(a) A public servant is prohibited from inquiring into the immigration status of any person, or engaging in activities designed to ascertain the immigration status of any person, while acting within the scope of his or her authority, or employment, as a public servant.

(b) Notwithstanding the prohibitions set forth in Subsection (a) of this section, public servants are expressly permitted to engage in the following activities, which shall not constitute a violation of this article:

- (1) Solicitation of information concerning immigration status where specifically required by any federal, state, or City law or program as a condition of eligibility for the service sought; or
- (2) Solicitation of information concerning immigration status for the purpose of completing I-9 Forms, and, when relevant, in making hiring and payroll withholding decisions, including, but not limited to, completing I-9 Forms, questioning a person to complete the I-9 Form, obtaining documents that support the I-9 Form, and allowing federal authorities to audit an I-9 Form in accordance with law; or
- (3) Solicitation of information concerning immigration status for a subpoena issued in a criminal proceeding, civil litigation, or an administrative proceeding for the production of City documents or for testimony of a public servant, including where related to immigration issues or other security issues; or
- (4) Solicitation of information concerning immigration status by a public servant, who is a police officer, as set forth in Section 27-9-4 of this Code.

Sec. 27-9-6. Implementation of article.

This article shall be implemented by the Human Resources Department through ongoing training and educational programs to inform public servants regarding its prohibitions and requirements.

Sec. 27-9-7. Violations and penalties.

Where a public servant is alleged to have violated this article, the matter shall be referred, as appropriate, to the City Council in accordance with Section 2-107(2) of the 1997 Detroit City

Charter, or to the department director or agency head, for review, investigation, and disposition. Any disciplinary action shall be carried out in accordance with the provisions of the 1997 Detroit City Charter and other laws, City personnel rules, civil service rules, union contracts, or other departmental or agency rules and regulations.

Sec. 27-9-8 -- 27-9-10. Reserved.

Section 2. This ordinance is hereby declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective sixty (60) days after enactment in accordance with Section 4-115 of the 1997 Detroit City Charter.

Approved as to form:

Brenda E. Braceful
Deputy Corporation Counsel