

## ARTICLE IX. - BIAS-BASED POLICING AND SOLICITATION OF IMMIGRATION STATUS

### Sec. 27-9-1. - Statement of purpose.

It is the policy of the City of Detroit to respect the rights of, and provide equal services to, all persons regardless of appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, sexual orientation, or gender identity or expression; to ensure the enforcement of rights under the United States Constitution, including due process and equal protection; to promote community safety; to encourage victims of crime and witnesses to cooperate with law enforcement authority without regard to immigration status; to prevent bias-based policing; and to promote acceptance. In order to permit members of immigrant communities to access services that are provided by the City of Detroit government to which they are entitled; and to ensure that city public servants are acting consistent with federal law regarding local governments cooperating with federal immigration authorities, the City of Detroit enacts this article as an effective way to guide city public servants in adhering to rights under the United States Constitution, including due process and equal protection, and under federal law, while protecting the safety and health of all members of the Detroit community.

(Ord. No. 10-07, § 1, 5-9-07; Ord. No. 09-08, § 1, 4-9-08)

### Sec. 27-9-2. - Definitions.

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

*Blight violation* means any unlawful act, or any omission or failure to act, which is designated by this Code as a blight violation pursuant to Section 41(2) of the Michigan Home Rule Cities Act, being MCL 117.4l(2).

*City* means the City of Detroit.

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

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

*Gender identity or expression* means a gender-related identity, appearance, expression, or behavior of an individual, regardless of the designation of gender on one's birth certificate.

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

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

*Public servant* means the mayor, members of the city council, the city clerk, any member of any city agency, board, commission, or other voting body that is established by the 1997 Detroit City Charter or by this Code, and any appointee, any employee, or any individual who provides services to the City of Detroit within or outside of its offices or facilities pursuant to a personal services contract.

*Sexual orientation* means a person's actual or perceived status as heterosexual, homosexual, or bisexual.

(Ord. No. 10-07, § 1, 5-9-07; Ord. No. 09-08, § 1, 4-9-08)

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, sexual orientation, or gender identity or expression 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, or gender identity or expression. 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, sexual orientation, or gender identity or expression. 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, sexual orientation, or gender identity or expression for the purpose of identifying a described individual.

(Ord. No. 10-07, § 1, 5-9-07; Ord. No. 09-08, § 1, 4-9-08)

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.

(Ord. No. 10-07, § 1, 5-9-07)

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.

(Ord. No. 10-07, § 1, 5-9-07)

#### 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.

(Ord. No. 10-07, § 1, 5-9-07)

#### 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.

(Ord. No. 10-07, § 1, 5-9-07)

#### Secs. 27-9-8—27-9-10. - Reserved.