

TOWN COUNCIL ACTION REPORT

May 3, 2018

An Ordinance In Support of a Welcoming Community in Accordance with Comprehensive Plan Initiatives, Serving as a Catalyst to Connect and Engage Inclusively With All Residents

PREPARED BY: Pamela S. Reece, City Manager

REVIEWED BY: Richard Bleichner, Chief of Police
Brian Day, Corporation Council
Teri Legner, Assistant City Manager

BUDGET IMPACT: N/A

STAFF RECOMMENDATION: Approval

ATTACHMENTS: Proposed Ordinance

BACKGROUND

Since early 2017, communities across the state and across the country have been responding to citizen concerns relative to the immigrant community and Federal enforcement strategies. In January 2017, President Trump signed an Executive Order pertaining to sanctuary jurisdictions. As a result of the changing Federal landscape, discussions at the local level in communities across the nation focused on a variety of issues including immigrant status, sanctuary city designation, welcoming city declaration, and the role of local law enforcement. In February 2017, the Town was approached by representatives of interested organizations to adopt a "Welcoming City Ordinance." As proposed, the ordinance was not considered due to the Town's belief that it was ambiguous, imposed unspecified obligations on Town staff and subjected the Town to potential liability.

In August 2017, the State of Illinois adopted the Trust Act which established certain parameters for local law enforcement regarding interaction with Immigration and Customs Enforcement (ICE). The Town of Normal complies with the Trust Act as well as all other State and Federal regulations and judicial warrants. To date, the Town of Normal and the Normal Police Department have not experienced any negative situations regarding federal immigration authorities and the local immigrant community.

Throughout the course of discussions at the national and state level related to immigration issues, a number of interested community members commenced an awareness campaign to educate civic leaders, municipal staff, community organizations, churches and other stakeholder groups about challenges facing the immigrant community.

In February 2018, representatives from the Keeping Families Together Coalition, a group representing a variety of organizations, met with Town staff to discuss its goal to recognize the Town of Normal as a welcoming community. Former City Manager Mark Peterson, Police Chief Rick Bleichner and then Deputy City Manager Pam Reece started a dialogue about the concept of a welcoming city designation. The dialogue between Town staff and Coalition members focused on areas of interest, including the

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overall desire of all involved to build a solid long-term relationship, to work collaboratively to ensure our community remains a safe place and a place of pride, to acknowledge the professionalism of the Normal Police Department and to develop a mutual understanding on matters pertaining to immigration enforcement.

During subsequent discussions, staff and Coalition representatives attempted to find solutions to concerns not only by articulating how the Normal Police Department could expand its community policing strategies but also by identifying and targeting community visions and values identified in the Town's Comprehensive Plan. The Plan was adopted on November 20, 2017 following a two-year process involving numerous citizen committees and significant public input.

The Comprehensive Plan contains a section titled "Humanitarian and Social Aspects." This section was used as a guide for staff in order to remain in alignment with the previously approved Town of Normal 2040 Vision Plan. As stated in the Plan, the Town "can effect change directly through internal policies, local ordinance, public-private partnerships, and intergovernmental agreements; or pursue less direct means of influence such as education and advocacy and facilitating collaboration among third parties." Strategies recommended in the Comprehensive Plan in support of these initiatives include:

- Building awareness, understanding, and empathy for people of all backgrounds, circumstances, and abilities.
- Fostering informal multicultural interactions.
- Considering the needs of all residents when designing public places and programming.
- Achieving equitable outcomes in law enforcement and the legal system.
- Reducing economic inequality and promoting opportunity for all residents through inclusive economic development efforts, support for public and private human service providers, provision of a greater supply of affordable and supportive housing, support for equitable transportation options, and pursuit of "compassionate city" initiatives that use technology to address social disparities.

The Plan further suggests the Town aspire to foster a community culture that more fully meets our ideals of respect, equity and inclusiveness. An identified goal is to promote a community-wide culture of openness, empathy and equitable treatment of all residents.

The City of Peoria adopted a welcoming city resolution in May 2017 and the City of Urbana adopted a sanctuary city ordinance in May 2017. Other Midwest university communities that have adopted welcoming city legislation include: W. Lafayette, IN; Iowa City, IA; Carbondale, IL; Ann Arbor, MI; and Kalamazoo, MI.

Representatives from the community stakeholder group include, among others:

Keeping Families Together Coalition
Illinois People's Action
YWCA
League of Women Voters
Black Lives Matter

Immigration Project
ACLU
Not In Our Town
Conexiones Latinas of McLean County

Some of the local member organizations associated with Illinois People's Action include:

New Covenant Community, Normal

Moses Montefiore Congregation, Bloom.

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First Presbyterian Church, Normal
Resurrection Lutheran Church, Bloom.
Mount Moriah Christian Church, Bloom.
Mennonite Peace and Justice Committee, Normal

First United Methodist Church, Normal
Unitarian Universalist Church, Bloomington
Holy Trinity Church, Bloomington

DISCUSSION/ANALYSIS

Staff has worked closely with Coalition representatives to draft a unique, Normal-specific ordinance that both addresses Coalition member concerns and links directly to the Comprehensive Plan. Further, the proposed ordinance confirms and endorses the Normal Police Department community policing efforts by cultivating stronger relationships with all residents and community organizations. Details of the proposed ordinance are as follows:

- Section 1: The Town is committed to creating a community where all residents feel welcome, safe and able to fully participate in, and contribute to, Normal's economic and social life.
- Section 2: The Town will continue to abide by the Trust Act.
- Section 3: The Town will continue to respond to criminal activity without regard to immigration or citizenship status, promoting and encouraging all individuals to report crimes.
- Section 4: Town employees will not ask about citizenship or immigration status unless that inquiry is required by statute, ordinance, federal law, court order or it is deemed necessary for a criminal investigation. If inquiring, Town employees will articulate the purpose of the inquiry.
- Section 5: For certification requests related to immigration benefits, the Town will share information on the certification process and the NPD point of contact. The Town further commits to ensure employees are properly trained on the certification process.
- Section 6: Individuals will not be investigated by the NPD solely for an immigration violation.
- Section 7: After approval by the Police Chief or his designee, NPD members may contact or cooperate with ICE in the performance of their job duties. The Chief or designee will consider the impact on public safety, the impact to the individual or other affected parties and the risk that the communication will impact future cooperation with police by the immigrant communities. The NPD will create an internal policy to track these situations.
- Sections 8 – 9: This ordinance does not restrict the NPD from adhering to judicial warrants or from adherence to federal statute 8 USC 1373. This statute prohibits restrictions on a local entity or official from sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual. The Town intends to fully comply with this statute.

The proposed ordinance creates an extra step for NPD personnel by requiring approval of the Chief or his designee prior to collaborating or communicating with ICE. By taking this step, the Town has created a "check and balance" in our system, acknowledging that additional care will be given to such situations. We are confident that relationships with all residents will strengthen and the NPD's community policing strategies will continue to foster compassionate, safe neighborhoods.

Staff recommends Council approval of the proposed ordinance.

ORDINANCE NO. ____

AN ORDINANCE IN SUPPORT OF A WELCOMING COMMUNITY IN ACCORDANCE WITH COMPREHENSIVE PLAN INITIATIVES, SERVING AS A CATALYST TO CONNECT AND ENGAGE INCLUSIVELY WITH ALL RESIDENTS

WHEREAS, the Town of Normal is a home-rule municipality, with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, the Town is committed to continue building a welcoming, safe, and hate-free environment where all residents are welcomed, accepted, and integrated; and to encourage business leaders, civic groups, community institutions, and residents to join in a community-wide effort to adopt policies and practices that promote integration, inclusion, and equity; and

WHEREAS, the Town has adopted the Comprehensive Plan, which serves as the core statement of the Town's development policy and principle and serves as a roadmap on a journey to become a place where all individuals can support a vibrant, prosperous and connected community with strategies that promote engagement, economy, community spaces, social equity, multiculturalism, lifelong learning, creativity and well-being; and

WHEREAS, the Town aspires to become a connected and engaged community where all individuals can come together to encourage and support neighbors, fostering a community culture that more fully meets our ideals of respect, equity and inclusiveness; and

WHEREAS, Normal is a compassionate community that strives for social consciousness, responsiveness and justice as well as a community that celebrates our unique and diverse backgrounds, identities, cultures, and talents; and

WHEREAS, the Comprehensive Plan identifies a core value of the community to foster a community-wide culture of openness, empathy, and equitable treatment of all residents; and

WHEREAS, the Town maintains a police department for the purpose of ensuring the orderly application of law and protecting and advancing the health, safety, and welfare of the Town's residents; and

WHEREAS, immigration enforcement is a matter of federal law, and Illinois law-enforcement officers are permitted to enforce federal civil immigration law only in those limited circumstances where state and federal law authorize them to do so, and it is the Town's responsibility to be vigilant in the appropriate and effective use of resources and to ensure that the community's resources are not used to perform Federal immigration functions that could impact the safety and welfare of the community; and

WHEREAS, no federal law compels local police to enforce federal immigration law, and any such requirement would raise anti-commandeering issues under the Tenth Amendment to the Constitution of the United States; and

WHEREAS, the Illinois General Assembly enacted the Illinois TRUST Act (5 ILCS 805/) for the purpose of establishing limits on local police interaction with ICE enforcement, and of helping foster trust between local police and immigrant communities; and

WHEREAS, the Town abides by the requirements of the Illinois TRUST Act; and

WHEREAS, the Normal Police Department has worked tirelessly to develop a Community Policing program to build relationships with all populations within the community and help set the foundation for a safer and stronger community; and

WHEREAS, it is the policy of the Town, along with its Police Department, to act without prejudice in protecting persons against crimes; and

WHEREAS, it is essential to public safety that every person, regardless of immigration status, who is a victim of or witness to a crime feels comfortable reporting crimes or aiding in the investigation of crimes; and

WHEREAS, the Town recognizes that the arrest of a non U.S. citizen may increase that person's risk of deportation, even in cases where that person is later found to be not guilty, potentially creating additional consequences from that arrest in addition to potentially creating additional barriers to effective communication and cooperation between the Police Department and the community; and

WHEREAS, the Town recognizes that law-enforcement activities concerning immigration or citizenship status should be treated with the utmost care and consideration; and

WHEREAS, it is in the best interests of the health, safety, and welfare of the residents of Normal to adopt a policy that ensures that all Town law-enforcement activities concerning immigration or citizenship status be treated with discretion.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE TOWN OF NORMAL, ILLINOIS:

SECTION ONE: The Town is committed to being a welcoming community where all residents feel welcome, safe, and able to fully participate in, and contribute to, our Town's economic and social life. The Town Council urges all residents of the Town of Normal to do their part in reaching out and supporting all those who live in and visit our great community.

SECTION TWO: It is the policy of the Town to abide by the TRUST Act.

SECTION THREE: To promote a welcoming and safe community, the Town shall continue its practice to: (1) respond to criminal activity without regard to the immigration or citizenship status of those involved; and (2) promote and encourage all individuals, regardless of their immigration or citizenship status, to report crimes.

SECTION FOUR: No employee or agent of the Town may request information about or otherwise investigate or assist in the investigation of the citizenship or immigration status of any

person unless such inquiry or investigation is required by statute, ordinance, federal law, or court order or is deemed to be necessary for a criminal investigation. If at any time an employee of the Town requests the citizenship or immigration status of an individual for one of the reasons listed above, the individual will be informed about why the information is being requested.

SECTION FIVE: As further encouragement of all individuals to report crimes, the Police Department, as well as any other investigatory agency within the Town, shall consider certification requests related to an immigration benefit by any victim of a crime or their representative in a timely manner, will reference federal guidelines in determining the parameters of its discretion. The Town shall make information available on the process and point of contact for certification requests. The Town shall ensure its employees are properly trained and knowledgeable regarding the certification process and the importance of same.

SECTION SIX: The Normal Police Department shall not investigate an individual solely for an immigration violation.

SECTION SEVEN: Members of the Normal Police Department may contact or cooperate with ICE in the performance of their job duties only after approval by the Chief of Police or appointed designee. In deciding whether to approve the contact or cooperation, the Chief or designee shall consider the impact on public safety, the impact to the individual or other affected parties and the risk that the communication will impact future cooperation with police by immigrant communities. The Normal Police Department will create and maintain an internal policy that provides a clear procedure which will ensure the written evaluation of any such requests. Nothing in this section limits the communications by members of the Police Department allowed by Section 9.

SECTION EIGHT: This ordinance does not prohibit the Normal Police Department from acting upon any valid criminal warrant issued upon a judicial determination of probable cause and in compliance with the requirements of the Fourth Amendment to the U.S. Constitution and Article I, Section 6 of the Illinois Constitution.

SECTION NINE: Nothing in this ordinance is intended to limit any communication by the Town or any official that is allowed by 8 USC 1373. If there is any conflict between the provisions of this ordinance and the provisions of 8 USC 1373, then the provisions of that federal statute shall prevail.

SECTION TEN: This ordinance does not create or form the basis for liability on the part of the Town, its agents, or agencies. The exclusive remedy for violations of this ordinance is through the Town's disciplinary procedures for employees under regulations including personnel rules, union contracts, or any other agency rules or regulations.

SECTION ELEVEN: The Town of Normal Police Department shall continue to receive training on the Illinois TRUST Act and all the provisions of this Ordinance.

SECTION TWELVE: In the event that any section, clause, provision, or part of this ordinance is determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION THIRTEEN: The Town Clerk is directed and authorized to publish this ordinance in pamphlet form as provided by law.

SECTION FOURTEEN: This ordinance takes effect 10 days after the date of its publication.

SECTION FIFTEEN: That this ordinance is adopted under the Home Rule Authority granted the Town of Normal by Article 7, Section 6, of the Illinois Constitution, 1970.

APPROVED:

 President of the Board of Trustees of
 The Town of Normal, Illinois

ATTEST:

 Town Clerk
 (seal)

The foregoing ordinance was voted upon and passed by the President and Board of Trustees of the Town of Normal on the ____ day of _____, 2018, with _____ voting aye; _____ abstaining; _____ voting nay: and _____ absent.

	AYE	NAY	OTHER		AYE	NAY	OTHER
Councilman Fritzen				Councilman Preston			
Councilman McBride				Councilman McCarthy			
Councilwoman Cummings				Mayor Koos			
Councilwoman Lorenz							

The foregoing ordinance was approved by the President on the ____ day of _____, 2018.

The foregoing ordinance was published in pamphlet form on the ____ day of _____, 2018.