

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 13 ("HUMAN RIGHTS") OF THE OAK PARK VILLAGE CODE BY ADDING A NEW ARTICLE 7 ("WELCOMING VILLAGE")

WHEREAS, the Village of Oak Park ("Village") welcomes diversity and believes that all individuals living in or visiting the Village should be treated fairly and with respect and dignity the Village Board wishes to further enhance the Village's relationship with immigrant communities and make the Village of Oak Park an immigrant-friendly Village; and

WHEREAS, this Ordinance discourages unlawful discrimination and strongly supports the equal treatment of all individuals regardless of national origin; and

WHEREAS, the Village Board finds that achieving and maintaining a community that treats documented and undocumented immigrants with respect and dignity is in line with the public policy of the Village and the principles upon which the United States was founded; and

WHEREAS, this Ordinance will promote the general welfare of Village residents and visitors alike; and

WHEREAS, the validity of the Village as an ethnically, racially and religiously diverse Village in the State of Illinois, is built, in part, on the strength of its immigrant communities in the Village; and

WHEREAS, the Village Board finds that the cooperation of all persons, both documented citizens and those without documentation status, is essential to achieve the Village' goals of protecting life and property, preventing crime and resolving problems; and

WHEREAS, immigrant community members, whether documented citizens or not, should be treated with respect and dignity by all Village employees and should not be subjected to physical abuse, threats, or intimidation; and

WHEREAS, one of the Village's most important goals is to enhance the Village's relationship with the immigrant communities; and

WHEREAS, due to the Village's limited resources; the complexity of immigration laws; the clear need to foster the trust of and cooperation from the public, including members of the immigrant communities; and to effectuate the Village's goals, the Village Board finds that there is a need to clarify the communications and enforcement relationship between the Village and the federal government and to clarify what specific conduct by Village employees is prohibited because such conduct significantly harms the Village's relationship with immigrant communities; and

WHEREAS, the purpose of this Ordinance is to establish the Village's procedures concerning immigration status and enforcement of federal civil immigration laws and to identify conduct in which Village employees may not engage when interacting with community members; and

WHEREAS, Article VII, Section 6(a) of the Illinois Constitution of 1970, provides that the "powers and functions of home rule units shall be construed liberally," and written "with the intention that home rule units be given the broadest powers possible," *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992), and this Ordinance is adopted pursuant to such authority.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as though fully set forth.

Section 2. Village Code Amended. A new Article 7 ("Welcoming Village") is hereby added to Chapter 13 ("Human Rights") of the Oak Park Village Code as follows:

ARTICLE 7

WELCOMING VILLAGE

13-7-1: DEFINITIONS:

13-7-2: REQUESTING INFORMATION PROHIBITED:

13-7-3: THREATS BASED ON CITIZENSHIP OR IMMIGRATION STATUS PROHIBITED:

13-7-4: CONDITIONING BENEFITS, SERVICES, OR OPPORTUNITIES ON IMMIGRATION STATUS PROHIBITED:

13-7-5: CIVIL IMMIGRATION ENFORCEMENT ACTIONS – FEDERAL RESPONSIBILITY:

13-7-6: FEDERAL REGISTRY PROGRAMS

13-7-7: INFORMATION REGARDING CITIZENSHIP OR IMMIGRATION STATUS:

13-7-8: NO PRIVATE CAUSE OF ACTION:

13-7-1: DEFINITIONS:

The following terms wherever used in this article shall have the following meanings unless a difference meaning appears from the context:

ADMINISTRATIVE WARRANT: An immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other documents, issued by ICE that can form the basis for an individual's arrest or detention for a civil immigration enforcement purpose. This definition does not include any criminal warrants issued upon a judicial determination of probable cause and in compliance

with the requirements of the Fourth Amendment to the United States Constitution and Article 1, Section 6 of the Illinois Constitution.

AGENCY: Every Village department, division, commission, committee, board, or other body established by authority of an ordinance or Village Board resolution.

AGENT: Any person employed by or acting on behalf of an agency.

CITIZENSHIP OR IMMIGRATION STATUS: All matters regarding questions of citizenship of the United States or any other country, the authority to reside in or otherwise be present in the United States, the time and manner of a person's entry into the United States, or any other immigration matter enforced by the Department of Homeland Security or successor or other federal agency charge with the enforcement of civil immigration laws.

COERCE: To use express or implied threats towards a person or any family member of a person that attempts to put the person in immediate fear of the consequences in order to compel that person to act against his or her will.

CONTACT INFORMATION: Home address, work address, telephone number, electronic mail address, social media contact information, or any other means of contacting an individual.

ELIGIBLE FOR RELEASE FROM CUSTODY: A person that may be released from custody because one of the following conditions has occurred:

- A. All criminal charges against the person have been dropped or dismissed;
- B. The person has been acquitted of all criminal charges filed against him or her;
- C. The person has served all the time required for his or her sentence;
- D. The person has posted a bond; or
- E. The person is otherwise eligible for release under state or local law, or local policy.

ICE: The United States Immigration and Customs Enforcement Agency and shall include any successor agency charged with enforcement of civil immigration laws.

IMMIGRATION DETAINER: A request by ICE to a federal, state or local law enforcement agency to provide notice of release or maintain custody of an individual based on an alleged violation of a civil immigration law, including detainers issued pursuant to Sections 1226 or 1357 of Title 8 of the United States Code or 287.7 or 236.1 of Title 8 of the Code of Federal Regulations. These detainers include but are not limited to DHS Form I-247D "Immigration Detainer –

Request for Voluntary Action”; DHS I-247X “Request for Voluntary Transfer”; or DHS Form I-247N “Request for Voluntary Notification of Release.”

IMMIGRATION ENFORCEMENT OPERATION: Any operation that has as one of its objectives the identification or apprehension of a person or persons: 1) in order to subject them to civil immigration detention, removal proceedings and/or removal from the United States; or 2) to criminally prosecute a person or persons for offenses related to immigration status, including but not limited to violations of Sections 1253, 1304, 1306(a) and (b), 1325, or 1326 of Title 8 of the United States Code.

VERBAL ABUSE: The use of oral or written remarks that are overly insulting, mocking, or belittling, directed at a person based upon the actual or perceived race, color, sex, religion, national origin, English proficiency, sexual orientation, or gender identity of that person.

13-7-2: REQUESTING INFORMATION PROHIBITED:

No agent or agency shall 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 an order of a court of competent jurisdiction. Notwithstanding this provision, the Village Attorney or the Village Attorney’s designee may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding in which the Village is or may be a party.

13-7-3: THREATS BASED ON CITIZENSHIP OR IMMIGRATION STATUS PROHIBITED:

No agent or agency will coerce, including using threats of deportation, or engage in verbal abuse of any person based upon the person’s or the person’s family members’ actual or perceived citizenship or immigration status.

For purposes of this section, “family member” means a person’s:

1. Mother, father, spouse, brother or sister (including blood, step or half), son or daughter (including blood, step or half), father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparent or grandchild;
2. Court-appointed legal guardian or a person for whom the person is a court-appointed legal guardian; or
3. Domestic partner or the domestic partner’s mother, father, brother, sister (including blood, step, or half), son or daughter (including blood, step or half).

13-7-4: CONDITIONING BENEFITS, SERVICES, OR OPPORTUNITIES ON IMMIGRATION STATUS PROHIBITED:

A. No agent or agency shall condition the provision of the Village benefits, opportunities, or services on matters related to citizenship or immigration status unless required to do so by statute, federal regulation, or an order of a court of competent jurisdiction.

B. Where presentation of an Illinois driver's license or identification card is 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, shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided an Illinois driver's license or identification card except that this subsection B shall not apply to the completion of federally mandated I-9 forms.

C. All applications, questionnaires, and interview forms used in relation to Village benefits, opportunities, or services shall be promptly reviewed by the Village and any questions regarding citizenship or immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted and of no force and effect.

13-7-5: CIVIL IMMIGRATION ENFORCEMENT ACTIONS – FEDERAL RESPONSIBILITY:

A. No agency or agent shall stop, arrest, detain, or continue to detain a person after that person becomes eligible for release from custody or is free to leave an encounter with an agent or agency, based on any of the following:

1. An immigration detainer;
2. An administrative warrant as defined herein (including but limited to entered into the Federal Bureau of Investigation's National Crime Information Center database); or
3. Any other basis that is based solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation.

B. No agency or agent shall be permitted to accept requests by ICE or other agencies to support or assist in any capacity with immigration enforcement operations, including, but not limited to, requests to provide information, other than as provided in Section 13-7-7 below, on persons who may be the subject of immigration enforcement operations, to establish traffic perimeters, or to otherwise be present to assist or support an operation. In the event an agent receives a request to support or assist in an immigration enforcement operation, he or she shall report the request to his or her supervisor, who shall

decline the request and document the declination in an interoffice memorandum to the agency director through the chain of command.

C. No agency or agent shall enter into an agreement under Section 1357(g) of Title 8 of the United States Code or any other federal law that permits state or local governmental entities to enforce federal civil immigration laws.

D. Unless presented with a valid and properly issued criminal warrant, no agency or agent shall:

1. Permit ICE agents access to a person being detained by, or in the custody of, the agency or agent;
2. Transfer any person into ICE custody;
3. Permit ICE agents use of agency facilities, information, other than as provided in Section 13-7-7 below, or equipment, including any agency electronic databases, for investigative interviews or other investigative purpose or for purposes of executing an immigration enforcement operation; or
4. Expend the time of the agency or agent in responding to ICE inquiries or communicating with ICE regarding a person's custody status, release date, or contact information.

13-7-6: FEDERAL REGISTRY PROGRAMS

No agency or agent shall expend any time, facilities, equipment, information, or other resources of the agency or agent to facilitate the creation, publication, or maintenance of any federal program to register individuals present in the United States based on their ancestry, national origin, or religion, or the participation of any Village residents in such a registry.

13-7-7: INFORMATION REGARDING CITIZENSHIP OR IMMIGRATION STATUS:

Nothing in this article prohibits any agency or agent from sending to, or receiving from, any local, state, federal agency, information regarding an individual's citizenship or immigration status. All agents shall be instructed that federal law does not allow such a prohibition. "Information regarding an individual's citizenship or immigration status," for purposes of this section, means a statement of the individual's country of citizenship or a statement of the individual's immigration status.

13-7-8: NO PRIVATE CAUSE OF ACTION:

This article does not create or form a basis for liability on the part of the Village, its agents, or agencies. The exclusive remedy for violation of this article shall be the Village's disciplinary procedures for officers and employees.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

ADOPTED this 6th day of February, 2017, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Barber				
Trustee Brewer				
Trustee Button Ott				
Trustee Lueck				
Trustee Salzman				
Trustee Tucker				

APPROVED this 6th day of February, 2017.

Anan Abu-Taleb, Village President

ATTEST

Teresa Powell, Village Clerk

Published in pamphlet form this 6th day of February, 2017.

Teresa Powell, Village Clerk