

Municipal Code of Hartford, Vermont

WELCOMING HARTFORD ORDINANCE

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Title

This ordinance shall be known as the Welcoming Hartford Ordinance.

Purpose and intent

The Town Selectboard finds that the cooperation of all persons, citizens and non-citizens regardless of immigration status, is essential to achieve the Town's goals of protecting life and property, preventing crime and resolving problems. The Town Selectboard further finds that assistance from a person, whether documented or not, who is a victim of, or a witness to, a crime is important to promoting the safety of all its residents.

Due to the Town'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 Town's goals, the Town Selectboard finds that there is a need to articulate its guidelines regarding the communications and enforcement relationship between the Town and the federal government. The purpose of this chapter is to establish the Town's procedures concerning immigration status and enforcement of federal civil immigration laws.

Definitions

As used in this ordinance, the following words and phrases shall mean and include:

Administrative warrant. "Administrative warrant" means an immigration warrant issued by ICE, or a successor or similar federal agency charged with the enforcement of civil immigration laws, used as a non-criminal, civil warrant for immigration purposes.

Agency. "Agency" means every Hartford Town department, agency, division, commission, council, committee, board, other body, or person established by authority of an ordinance, executive order, or order of the Hartford Selectboard.

Agent. "Agent" means any person employed by or acting on behalf of an Agency.

Citizenship or immigration status. "Citizenship or immigration status" means 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,

Federal immigration authorities. "Federal immigration authorities" means federal agencies, departments, or employees or contractors thereof, tasked with enforcement of immigration law and border entry, including without limitation, the Department of Homeland Security (OHS), Immigration Control and Enforcement (ICE), and U.S. Customs and Border Patrol (CBP).

Immigration detainer. "Immigration detainer" means an official request issued by ICE, or other federal agency charged with the enforcement of civil immigration laws, to another federal, state or local law enforcement agency to detain an individual based on a violation of a civil immigration law or notify ICE or other federal immigration agency of a person's release from custody.

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 Vermont State Statute, federal regulation, or court decision. Notwithstanding this provision, the Town Counsel may investigate and inquire about immigration status when relevant to potential or actual litigation or an administrative proceeding in which the Town is or may be a party.

Disclosing information prohibited.

No Agent or Agency shall disclose information regarding the Citizenship or immigration status of any person unless required to do so by statute or court order or such

disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or guardian.

This section shall not apply when such information sharing is necessary to an ongoing investigation of a felony, for which there is probable cause, and the investigation is unrelated to the enforcement of federal civil immigration law.

Conditioning benefits, services, or opportunities on immigrant status prohibited.

No Agent or Agency shall condition the provision of Town of Hartford benefits, opportunities, or services on matters related to Citizenship or immigration status unless required to do so by statute, federal regulation, or court decision.

Where presentation of a Vermont 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 matricula consular (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 a Vermont driver's license or identification card, except that this subsection shall not apply to the completion of the federally mandated 1-9 forms.

Civil immigration enforcement actions - Federal responsibility.

No Agent or Agency shall:

1. arrest, detain or continue to detain a person 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;
2. arrest, detain, or continue to detain a person based on an Administrative warrant, including one entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States, when the Administrative warrant is based solely on a violation of a civil immigration law;
3. detain or continue to detain a person based upon an Immigration detainer when such Immigration detainer is based solely on a violation of a civil immigration law;
4. use citizenship and immigration status as criteria for citation, arrest, or continued custody under Rule 3 of the Vermont Rules of Criminal Procedure;

5. make warrantless arrests or detain individuals on suspicion of "unlawful entry," unless the suspect is apprehended in the process of entering the United States without inspection; or
6. accept requests by Federal immigration authorities to support or assist in operations that are for civil immigration enforcement.

Unless necessary to an ongoing investigation of a felony, for which there is probable cause, and the investigation is unrelated to the enforcement of federal civil immigration law, no Agent or Agency shall:

1. permit Federal immigration authorities access to a person being detained by, or in the custody of, the Agent or Agency;
2. permit Federal immigration authorities use of agency facilities for investigative interviews or other investigative purpose; or
3. Respond to Federal immigration authorities inquiries or share information about an individual with Federal immigration authorities. Such information includes but is not limited to the individual's custody status, release date/time, court dates, whereabouts, residence, employment, identification numbers, appearance, telephone number, and familial relations. For the purpose of aiding an individual who may qualify for a U, S, or T Visa, information may be shared if such disclosure has been authorized in writing by the individual to whom such information pertains.

An Agent or Agency is authorized to communicate with Federal immigration authorities in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law.

No private cause of action

This chapter does not create or form the basis for liability on the part of the Town, its Agents, or Agencies.

The exclusive remedy for violation of this chapter shall be through the Town's disciplinary procedures for Agents under regulations including but not limited to this Town's personnel rules, union contracts, civil service commission rules, or any other Agency rules and/or regulations.

For purposes of ensuring compliance with the provisions of this ordinance, the Governor or any Selectboard member may request the Human Rights Commission (HRC) to

conduct an investigation of an agent or agency of the Town of Hartford to determine if it is in compliance with the Vermont Fair Housing and Public Accommodations Act (VFHPAA 9 V.S.A. §4502)

Exchanging file information

All applications, questionnaires, and interview forms to be completed and submitted after the passage of this ordinance used in relation to Town of Hartford benefits, opportunities, or services shall be promptly reviewed by the pertinent agencies and any questions regarding Citizenship or immigration status, other than those required by statute, ordinance, federal regulation or court decision, shall be deleted within 60 days of the final effective date of this ordinance.

Civil Ordinance; Authority

This ordinance shall take effect as a civil ordinance. It is not a criminal ordinance. This ordinance is pursuant to authority and powers of the Town of Hartford, Vermont as set forth in 24 V.S.A. 872 (a).

Severability

If any provision, clause, section, part, or application of this chapter to any person or circumstance is declared invalid by any court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder hereof or its application to any other person or circumstance. It is hereby declared that the legislative intent of the Selectboard that this chapter would have been adopted had such invalid provision, clause, section, part or application not been included herein.

From March 10, 2020, Selectboard Meeting Minutes:

e. Welcoming Hartford Ordinance (Motion Required)

On September 3, 2019, the Selectboard voted to put the attached draft of the Welcoming Hartford Ordinance on the March 3 Town Meeting ballot for consideration by the voters, as follows:

Shall the Town of Hartford advise the Selectboard to adopt the Welcoming Hartford Ordinance, dated September 3rd, 2019?

The voters of the Town approved the question by majority on March 3, 2020. If the Selectboard adopts the Ordinance, 24 VSA §1972 prescribes that it be posted within 14 days of adoption. If a petition for a vote on the question of disapproving an ordinance is signed by not less than five per cent of the qualified voters, and presented to the legislative body or the clerk within 44 days following the date of adoption of the ordinance or rule by the legislative body, a special Town Meeting on the ordinance shall be held on the Ordinance. If there is no petition, the Ordinance will become effective 60 days after adoption.

Selectboard Clerk, Dennis Brown asked many questions to clarify what passing this will really mean.

Selectboard Member, Joseph Major made the motion to adopt the September 3rd, 2019 Welcoming Hartford Ordinance. Selectboard Member, Kim Souza seconded the motion. 6 voted Yes, 1 voted No {Brown}. The motion passed.