

WORKING DRAFT

The City of Grand Rapids’ “Privacy, Safety & Dignity for All” Ordinance [Working Title]

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Sec. 1.1. Civil Immigration Enforcement – Federal Responsibility.

- A. The City of Grand Rapids shall not expend any time, funds, or resources on facilitating the civil enforcement of federal immigration law or participating in civil immigration enforcement operations, except where legally required to do so by state or federal law.

Specifically, the City of Grand Rapids, its employees and agents, and its law enforcement agents and employees, shall not:

1. Enter into any contract, agreement or arrangement that would grant federal immigration enforcement authority or power to the city or its agents or local law enforcement officers, including but not limited to agreements created under 8 U.S.C. § 1357(g).

2. Enter into any contract, agreement, or arrangement to detain individuals in deportation proceedings, including but not limited to Intergovernmental Service Agreements.
 - i. At least thirty (30) days before responding to a Request for Proposal, applying for or renewing any contracts, agreements or arrangements described in sections 1 and 2 of this Subsection, the City shall hold a meeting that is open to the public, in an accessible location, and with at least thirty (30) days' notice to provide information to the public about the proposed contract, agreement or arrangement and to receive and consider public comment. In addition to requirements provided for by Michigan's Open Meetings Act, notice of the meeting shall be posted in local newspapers and on the City's public facing website in the five (5) most commonly spoken languages in the City;
3. Honor immigration detainer requests or Immigration and Customs Enforcement ("ICE") or Customs and Border Patrol ("CPB") or United States Citizenship and Immigration Services ("USCIS") administrative warrants or hold any person upon receipt of a detainer request or ICE/CPB/USCIS administrative warrant unless such request or warrant is a valid and properly issued judicial criminal warrant;
4. Participate jointly in or assist in any civil immigration enforcement operations, including but not limited to any immigration enforcement raids, investigations, interrogations, detections, apprehensions, detentions, transfers, or requests to establish traffic perimeters. Any such request for cooperation from ICE/CPB/USCIS officers should be referred to the Chief of Police or appropriate agency chief who shall deny the request;
5. Permit ICE/CPB/USCIS officers, agents, or representatives access to municipal facilities, property, equipment, or databases absent a valid and properly issued judicial criminal warrant specifying the information or individuals sought. Any attempts or requests for access to such facilities, property, equipment, or databases shall be immediately sent to the agency chief that controls the appropriate facility, property, database or equipment pertinent. No permission to access any such facility, property, equipment, or database shall be provided without the express, written approval of the appropriate agency chief. Should the appropriate agency chief approve access, such access shall be limited in scope and time to the parameters and targets prescribed in the valid and properly issued judicial criminal warrant.

Sec. 1.2. Requesting Immigration Status Prohibited.

- A. No city agent, employee or agency may ask any individual or request information from any individual about the citizenship, immigration status, place of birth, nationality, or for immigration-related documents of any person, unless required by state or federal law.

Sec. 1.3. Bias-Based Profiling Prohibited.

- A. The City of Grand Rapids, its employees and agents, and its law enforcement agents and employees, shall not rely to any degree on actual or perceived national origin, immigration or citizenship status, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, housing status, financial status, marital status, status as a survivor of domestic violence, or status as a veteran in deciding to initiate a stop, or in deciding to question, search, arrest, detain, or take any other law enforcement action against any individual, except when a specific suspect description includes one or more of the above characteristics and those characteristics that are considered together with other information that links a particular individual to suspected criminal activity.
- B. Nothing in this ordinance shall be construed, implemented, or enforced in a manner that discourages any person, regardless of immigration status, from reporting criminal activity to law enforcement agencies, including victims and witnesses of crime.

Sec. 1.4. Non-Discrimination in City Services and Equal Application of the Law.

- A. The City of Grand Rapids, its employees and agents, and its law enforcement agents and employees, are hereby prohibited from:
 - a. Conditioning city services on immigration status, except where required under applicable state or federal law.
 - b. Coercing individuals or threatening or using verbal abuse to report them or their family members to a federal immigration enforcement agency, federal immigration enforcement officer or take other immigration-related action against them or their family members.
- B. Where proof of identity is required and presentation of a driver's license is accepted as adequate evidence of identity, presentation of a photo identity document issued by a valid government agency, such as a foreign driver's license, passport, consular-issued document, or any other similarly valid identity document shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment, unless otherwise required by state or federal law.

- C. The City of Grand Rapids shall continue to enforce any applicable local worker protections, such as Earned Sick Days and living wage laws, regardless of immigration status of the complainant or petitioner.

Sec. 1.5. Privacy of Residents' Personal Information.

- A. The City of Grand Rapids, its employees and agents, and its law enforcement agents and employees, shall not collect, maintain and/or share information that is unnecessary to perform municipal functions, about an individual's citizenship or immigration status, national origin, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, housing status, financial status, marital status, status as a survivor of domestic violence, criminal history, release date from incarceration or confinement in a jail, or status as a veteran, except where required by state or federal law.

Sec. 1.6. Record Keeping and Transparency.

Unless prohibited by applicable state or federal law, the City of Grand Rapids shall publish on its public-facing website on a quarterly basis:

- A. The number of requests from ICE/CBP/USCIS to participate in or assist in any civil immigration enforcement operations, including any raids, investigations, interrogations, detections, apprehensions, detentions, transfers, or requests to establish traffic perimeters;
- B. The number of immigration detainer requests or administrative warrants received from ICE/CBP/USCIS to detain or share information about any person wanted in relation to immigration enforcement activities or operations;
- C. The date on which any requests of the type enumerated in Sections A-B of this Subsection were received;
- D. The responses from the City of Grand Rapids to any requests of the type enumerated in Sections A-B of this Subsection;
- E. The number of times the City of Grand Rapids shared or reported information to ICE/CBP/USCIS, either voluntarily or pursuant to a legal process, with regard to information about any person in the City of Grand Rapids' custody;
- F. The number of times the City of Grand Rapids provided ICE/CBP/USCIS access to municipal facilities, property, equipment, information, databases, or to persons in the City of Grand Rapids' custody, including the location, nature and characteristics of such access, and anonymized and aggregated demographic information regarding persons to whom ICE/CBP/USCIS was provided access;
- G. The number of U visa and number of T visa certifications requested, how many certifications of each type were granted, how many certifications of each type were denied, and the average length in days between a request and certification or denial of certification;

- H. The City of Grand Rapids shall consider all records relating to ICE/CBP/USCIS access to facilities and information, including all communications with ICE, to be public records for purposes of the Freedom of Information Act (“FOIA”). The City of Grand Rapids shall provide all relevant records upon request and requests shall be handled under the usual procedures for receipt of FOIA requests.

Sec. 1.7. Violations.

- A. Any City official, employee, or agent found to have violated this Ordinance shall be subject to disciplinary action in accordance with the City Charter.

Sec. 1.8. Protecting Drivers’ Privacy – Prohibition of Automatic License Plate Readers.

A. Definitions.

1. “Automatic License Plate Reader (ALPR) system” means a system, software, or computer algorithm, whether used independently or in combination with one or more mobile or fixed automated cameras, that is used to convert images of license plates into computer-readable data.
2. “Captured plate data” shall mean the GPS coordinates, date and time, photograph, license plate number, and any other data captured by, derived, or inferred from any automatic license plate reader system, including but not limited to make, model, color, and other automobile characteristics.
3. “Government entity” shall mean a department or agency of the City of Grand Rapids or an individual acting for or on behalf of the City or a department or agency thereof.

- B. The City of Grand Rapids, its employees and agents, and its law enforcement officers and employees shall not obtain, retain, access, share, sell, provide, or use ALPR systems or the captured data therefrom.

- C. No captured ALPR data and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any City court, department, officer, agency, regulatory body, legislative committee, or other authority of the City of Grand Rapids, if the collection or disclosure of that information was or would be in violation of this Ordinance, unless such evidence is exculpatory in a criminal trial or proceeding.

- D. Penalties. Any person who violates the provisions of this Ordinance shall be subject to legal action for damages, to be brought by any other person claiming that a violation of this Act has injured their business, person, or reputation. A person so injured shall be entitled to actual damages, including mental pain and suffering endured by him on account of violation of the provisions of this Act, or liquidated damages of \$1,000, and a reasonable attorney’s fee and other costs of litigation.

Sec. 1.9. Protecting Immigrant Victims of Crime and Human Trafficking and Enhancing Trust in Law Enforcement.

This section refers to law enforcement certification requests for U nonimmigrant status, commonly known as a U visa, and T nonimmigrant status, commonly known as a T visa. Each

agency within the City of Grand Rapids with responsibility for investigating, prosecuting, or sentencing a qualifying criminal activity, as defined in subsection (H), shall within thirty (30) days shall develop and implement a U Visa Certification Policy governing the issuance of USCIS Forms I-918B (“U Visa Certifications”) to immigrant crime victims. Each agency within the City of Grand Rapids with responsibility for investigating, prosecuting, or sentencing severe forms of trafficking in persons or any crime where acts of trafficking are at least one central reason for the commission thereof shall within thirty days, draft and take material steps to implement a T Visa Certification Policy governing the issuance of USCIS Forms I-914B (“T Visa Certifications”).

- A. A U Visa Certification Policy shall be consistent with DHS' stated policy that implementing U Visa certification practices and policies will “strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other crimes while offering protection to victims of such crimes without the immediate risk of being removed from the country.” A T Visa Policy shall be consistent with DHS’s stated policy that the legislation governing T visas “strengthens the ability of law enforcement agencies to investigate and prosecute human trafficking, and also offer protection to victims.”
- B. A U Visa Certification Policy shall require, upon request by a victim or other federally authorized requester, that a certifying official from a certifying entity shall certify, as specified, "victim helpfulness" on the Form I-918 Supplement B, when the victim was a victim of qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity. A T Visa Policy shall require, upon request and as specified in the form and in the governing federal law, that an official of a Law Enforcement Agency certify on the Form I-914 Supplement B: whether the requester is or has been a victim of a severe form of trafficking in persons, as defined by federal law; whether the requester has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime; whether the Law Enforcement Agency has requested such assistance; and whether the requester has attained 18 years of age.
- C. A U Visa Certification Policy shall define "certifying entity," "certifying official," and the qualifying criminal activity for those purposes, in a manner consistent with federal law. A T Visa Certification Policy shall define “Law Enforcement Agency” for these purposes, in a manner consistent with federal law.
- D. A U Visa Certification Policy shall establish for purposes of determining helpfulness, a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide assistance reasonably requested by law

enforcement. Each T Visa Policy shall establish a rebuttable presumption that a victim of a severe form of trafficking in persons has complied with any reasonable request for assistance in the investigation or prosecution of qualifying acts or crimes, if the victim has not refused or failed to provide such assistance.

- E. Each U Visa Certification Policy and T Visa Certification Policy shall require the certifying entity to process a Form I-918B or Form I-914B, as applicable, within 30 days of request, unless the noncitizen is in removal proceedings, in which case the certification is required to be processed within 7 days of request. If the request is denied, the certifying entity will also notify the applicant in writing of the basis for the denial and the process for appealing the denial. Within 60 days of receiving an applicant's letter appealing a denial, the certifying entity will send a letter to the applicant's designated return mailing address notifying the applicant that the appeal: (i) is rejected and the initial denial is upheld; or (ii) is granted and the certifying entity will issue the requested certification.
- F. Definitions. For purposes of a U Visa Certification policy:
1. A "certifying entity" shall mean any one of the agencies within the municipality described in section 214.14(a)(2) of Title 8 of the Code of Federal Regulations, which include, but are not limited to, police departments, prosecutors' offices, judicial officials, family protective services agencies, equal employment opportunity agencies, labor departments, and any other agency subject to this ordinance which has responsibility for investigating, prosecuting, or sentencing a qualifying criminal activity. For purposes of the T Visa Certification Policy, a "Law Enforcement Agency" shall mean any agency within the municipality described by section 214.11(a) of Title 8 of the Code of Federal Regulations, including any "local law enforcement agency, prosecutor, judge, labor agency, children's protective services agency, or other authority that has the responsibility and authority for the detection, investigation, and/or prosecution of severe forms of trafficking in persons."
 2. A "certifying official" is any of the following: The head of the certifying entity; A person in a supervisory role who has been specifically designated by the head of the certifying entity to issue Form I-918B certifications on behalf of that agency; a judge; any other certifying official defined under Section 214.14 (a)(3) of Title 8 of the Code of Federal Regulations. For purposes of a T Visa Certification Policy, a T Visa Certification may be completed by any official of a Law Enforcement Agency.
 3. "Qualifying criminal activity" means qualifying criminal activity pursuant to Section 101(a)(15)(U)(iii) of the Immigration and Nationality Act which includes, but is not limited to, the following crimes: Rape; Torture; Trafficking; Incest; Domestic Violence; Sexual Assault; Abusive Sexual Contact; Prostitution; Sexual Exploitation;

Stalking; Female Genital Mutilation; Being Held Hostage; Peonage; Involuntary Servitude; Slave Trade; Kidnapping; Abduction; Unlawful Criminal Restraint; False Imprisonment; Blackmail; Extortion; Manslaughter; Murder; Felonious Assault; Witness Tampering; Obstruction of Justice; Perjury; or Fraud in Foreign Labor Contracting (as defined in Section 1351 of Title 18, United States Code). For purposes of a T Visa Certification Policy, and as defined in federal law, “severe forms of trafficking in persons” means either (A) “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age,” or (B) “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

4. A "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal activity described in Section F.3, and the attempt, conspiracy, or solicitation to commit any of those offenses.
- G. For purposes of a U visa certification policy and a T visa certification policy, the federal government has imposed no requirement that there be a current investigation, the filing of charges, a prosecution, or a conviction in order for a certifying official or law enforcement official to sign the law enforcement certification, and there is no statute of limitations on signing the law enforcement certification.
- H. USCIS has the sole authority to grant U or T nonimmigrant status. Therefore, a U Visa Certification or T Visa Certification that has been completed and approved by a certifying official constitutes only one part of the application for U or T nonimmigrant status and does itself grant or guarantee such status, or any other legal immigration status.
- I. U Visa Certification Policies and T Visa Certification Policies shall be made publicly available; Be disseminated annually to each agency employee; Require periodic training of all relevant agency employees on the policies and procedures involved in responding to requests for U and T Visa Certifications; Identify resources, such as the Department of Homeland Security's U Visa Law Enforcement Certification Resource Guide, that agency employees should consult in responding to requests for U Visa Certifications.
- J. The City of Grand Rapids will review annual data regarding U and T certification requests, approvals, denials, and processing times.

- K. The City of Grand Rapids, its employees and agents and its law enforcement agents and employees shall not disclose the immigration status of the person requesting a U Visa or T Visa certification except where required by state or federal law or regulation.

Sec. 1.10. Language Access.

The City of Grand Rapids shall provide free language assistance services as required by this Ordinance to Limited English Proficient individuals. Public-facing City departments shall employ sufficient bilingual employees, or contract for interpretation services, to provide services in languages spoken by at least 5% of the City population or 10,000 residents. City departments shall provide translation of vital documents in languages spoken by at least 5% of the City population. Offices must submit a compliance plan to the City Manager's Office on an annual basis. Furthermore,

- E. When a Limited English Proficient (LEP) individual seeks or receives benefits or services from a City department, the department shall provide prompt language assistance services in all interactions with that individual, whether the interaction is by telephone, in writing, or in person. The City department or contractor shall meet its obligation to provide prompt language assistance services for purposes of this subdivision by ensuring that LEP individuals do not have to wait unreasonably longer to receive assistance than individuals who do not require language assistance services.
- F. Where an application or form administered by the municipality requires completion in English by LEP individual for submission to a state or federal authority, the City department or contractor shall provide oral translation of such application or form and shall assist the individual in complying with any interpreter certification requirements imposed by the receiving state or federal agency.
- G. The City of Grand Rapids shall make all reasonable efforts to provide language assistance services in person by bilingual personnel.

Sec. 1.11. Community Trust and Welcoming City Commission Established.

- A. A Community Trust and Welcoming City Commission is hereby established. The City of Grand Rapids shall coordinate the Commission.
- B. The goal of the Community Trust and Welcoming City Commission shall be to ensure implementation of policies that preserve and protect our diverse and inclusive community, and will serve as a resource for immigrant community members with questions, comments, or concerns about safety or the City government's role in protecting the rights, safety, and well-being of all residents.

- C. The Community Trust and Welcoming City Commission shall monitor the implementation of this Ordinance.
- D. It shall also oversee the coordination efforts for greater access to translation and interpretation services, legal representation, citizenship services, U and T Visa Certification services, English language courses, data and privacy protections as outlined in this Ordinance.
- E. The Community Trust and Welcoming City Commission shall submit the Director's annual report to the City Commission regarding implementation of this Ordinance, language access services, community concerns, interactions with federal immigration authorities, and recommendations for policy improvements.
- F. The following City departments, and any others chosen by the City Manager, shall form part of the Community Trust and Welcoming City Commission:
 - 1. The Director of the Community Trust and Welcoming City Department
 - 2. Office of Oversight and Public Accountability
 - 3. Equity and Engagement
 - 4. Community Development
 - 5. At least one (1) member of the City Commission
 - 6. At least one (1) immigrant-community representative
 - 7. At least five (5) community stakeholders including, but not limited to the Grand Rapids Public School Board, faith-based organizations, immigration legal service agencies, organizations that serve non-citizens and civil rights groups serving the residents of the City of Grand Rapids, regardless of immigration status.
- G. In addition, others will be invited to participate and share their views and ideas with the Community Trust and Welcoming City Commission upon invitation from a Community Trust and Welcoming City Commission member.
- H. The Community Trust and Welcoming City Commission shall meet at least quarterly.
- I. Meetings shall be open to the public except as otherwise permitted by law.

Sec. 1.12. Community Trust and Welcoming City Department Established.

- A. A Community Trust and Welcoming City Department is hereby established.
- B. The Director shall implement this Ordinance.
- C. The Director of Community Trust and Welcoming City Department shall be appointed by the Community Trust and Welcoming City Commission and shall be subject to removal

by the City Commission without cause assigned. All other employees shall be employed by the Director in accordance with the Charter as it relates to civil service.

- D. The Director shall implement policies that preserve and protect our diverse and inclusive community, and will serve as a resource for immigrant community members with questions, comments, or concerns about safety or the City's role in protecting the rights, safety, and well-being of all residents.
- E. The Director shall also coordinate efforts for greater access to translation and interpretation services, legal representation, citizenship services, U and T Visa Certification services, English language courses, data and privacy protections as outlined in this Ordinance.
- F. The Director shall submit an annual report to the Community Trust and Welcoming City Commission regarding implementation of this Ordinance, language access services, community concerns, interactions with federal immigration authorities, and recommendations for policy improvements.
- G. The Director shall respond to any matter referred by the City Commission or Community Trust and Welcoming City Commission.

Sec. 1.13. City of Grand Rapids Clerk to Transmit Copies of This Chapter, Informing City Departments and Employees.

- A. Within 30 days, the Clerk of the City of Grand Rapids shall send copies of this Ordinance, including any future amendments thereto that may be made, to every department, agency and commission in the City of Grand Rapids.
- B. Each appointing officer in the City of Grand Rapids shall inform all employees under their jurisdiction of the requirements and prohibitions of this Ordinance, the duty of all of their employees to comply with the prohibitions in this Ordinance, and that employees who fail to comply with the prohibitions of the Ordinance may be subject to appropriate disciplinary action.
- C. Each agency shall issue written guidance to its employees regarding implementation of this Ordinance within thirty (30) days of the passage of this Ordinance.

Sec. 1.14. No Conflict with State or Federal Law.

- A. Nothing in this ordinance shall be interpreted, applied, or enforced to create any requirement, power, or duty in conflict with any federal or state law.

Sec. 1.15. Severability.

- A. This Ordinance and the various parts, sentences, paragraphs, sections and clauses it contains are hereby declared to be severable. Should any part, sentence, paragraph, section or clause be declared unconstitutional or invalid by any court for any reason, such judgment shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

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