

CITY OF SOMERVILLE
ORDINANCE NUMBER 2019-14
IN CITY COUNCIL: June 13, 2019

SOMERVILLE WELCOMING COMMUNITY ORDINANCE

Be it ordained by the City Council, in session assembled, that Section 2-6 of the Code of Ordinances of the City of Somerville, is hereby amended by deleting the existing Section 2-6 and inserting the following new Section 2-6.

Section 2-6. Somerville Welcoming Community Ordinance.

(a) Purpose.

The purpose of this ordinance is to establish our city as a Welcoming Community, to declare that all are welcome here, and to increase public confidence in Somerville’s government by providing guidelines associated with our city’s voluntary involvement in federal immigration enforcement. This Welcoming Community Ordinance shall replace Section 2.6 of the Somerville Municipal Code ("The Trust Act") in its entirety.

(b) Background.

The City of Somerville first declared itself to be a Sanctuary City by Resolution of the Board of Aldermen in 1987. Policies regarding the city’s voluntary involvement in federal immigration enforcement were formally established by Executive Order in May of 2014 and in October of 2014 the Board of Alderman ordained the “Trust Act,” which codified certain aspects of those policies. In 2016 the Board of Aldermen, by Resolution, reaffirmed Somerville as a Sanctuary/Trust Act City. This Welcoming Community Ordinance further codifies existing policy and serves to reinforce the city’s ongoing commitment to the immigrant community and Sanctuary City status.

(c) Preamble.

It is not within the purview nor mandate of the City of Somerville to enforce federal immigration law or seek the detention, transfer, or deportation of Somerville residents for civil immigration purposes, nor should the City of Somerville’s resources be expended toward that end. The City of Somerville will equally enforce the law and serve the public without consideration of immigration status, citizenship, national origin, race, or ethnicity.

(d) Definitions.

ICE means the federal agency “Immigration and Customs Enforcement” (ICE), and any other federal agency charged with the enforcement of immigration laws.

ICE administrative warrant means a warrant, notice to appear, removal order, warrant of deportation, or other ICE custody document (I-200, I-203, I-205 or another listed in the National Crime Information Database (NCIC)) issued by a federal immigration official, not a judicial officer, and not based on a finding of probable cause for an alleged criminal law violation.

Immigration detainers and *ICE detainers* are requests made by federal immigration officials,

including but not limited to those authorized under Section 287.7 of Title 8 of the Code of Federal Regulations to local Law Enforcement or Courts, to voluntarily maintain custody of an individual once that individual is released from local custody, and/or to notify a federal agency before the pending release of an individual.

- (e) Order.
- (1) Equal treatment. The City of Somerville will treat all persons equally, enforce laws, and serve the public without consideration of immigration status. Citizenship, immigration status, national origin, race, and ethnicity shall have no bearing on an individual's treatment by employees or officers of city agencies or departments.
- (2) Inquiries about immigration status. Officers and employees of the city may not inquire about the immigration status of any victim, suspect, arrestee, 911 caller, or other member of the public with whom they have contact, except as required to provide a public benefit.
- (3) Role of police in immigration enforcement. The Somerville Police Department will not initiate investigations or take law enforcement action on the sole basis of actual or perceived immigration status, including without limitation the initiation of a stop, an apprehension, or arrest. The Somerville Police Department shall not take part in or assist with federal immigration enforcement operations.
- (4) ICE detainers and administrative warrants. Consistent with Massachusetts law, no officer or employee of the Somerville Police Department may arrest or detain an individual solely on the basis of an ICE detainer or ICE administrative warrant. This includes extending the length of detention by any amount of time once an individual is or would otherwise be released from local custody, or before being transferred to court or admitted to bail.
- (5) Federal requests for information. No officer or employee of the Somerville Police Department shall provide a federal officer with the following information relating to a person in the custody of the Somerville Police Department: information about an individual's incarceration status, length of detention, home address, work address, personal information other than citizenship or immigration status, hearing information, or pending release, except information that is available through the Massachusetts Public Records Laws, G.L. c. 66, section 10 and G.L. c. 4, section 7 (twenty-sixth).
- (6) Encountering persons driving without a license. When taking action against a person who is found to be driving without a valid driver's license, officers of the Somerville Police Department shall, whenever possible and if there are no other violations causing the person to be arrested, issue a summons to court instead of taking the person into custody. In such circumstances, the law enforcement officer taking action shall endeavor to provide the driver a reasonable opportunity to arrange for a properly licensed operator to drive the vehicle before seeking to impound the vehicle.
- (7) Notice to individuals subject to ICE interventions. If the Somerville Police Department receives an immigration detainer or ICE administrative warrant for a person in its custody, the Department shall provide the person with a copy of such detainer request or administrative warrant, and any other documentation it possesses pertaining to the person's immigration case.
- (8) ICE access to facilities. Except in response to a judicial warrant or other court order, ICE agents shall not be allowed access to individuals in custody either in person or via telephone or videoconference.

- (9) U Visa Certification. In furtherance of the US Victims of Trafficking and Violence Prevention Act, the Somerville Police Department shall consider and sign a U Visa certification request if an individual (i.) is the victim of a qualifying crime, and (ii.) has been, is being, or will likely be helpful in the investigation/prosecution of that crime.
- (10) Raids and other immigration enforcement actions. No officer or employee of the Somerville Police Department may participate in an operation led by a federal agency to detain persons for deportation purposes, except in response to a request to assist with support services deemed necessary to ensure officer safety or to prevent a breach of the peace during a federal operation, such as requests to establish traffic perimeters, control traffic, or provide police escort.
- (11) Deputizing of local officials. No officer or employee of the City of Somerville shall perform the functions of an immigration officer, whether pursuant to 8 U.S.C. section 1357(g) or any other law, regulation, or policy, whether formal or informal.
- (12) School records and enrollment. No employee of the Somerville Public Schools shall require a student or parent to provide information regarding their immigration or citizenship status to establish the student's residency in the district for enrollment purposes. If such information becomes known to an employee of the Somerville Public Schools, such information shall not be kept or distributed, and shall have no bearing of the student's ability to register for school or the school's treatment of that student. Information collected regarding place of birth (if any) for the purpose of providing English Language Learners with appropriate services shall be used only for that purpose and not distributed further.

(f) Complaints.

Allegations of violations of this ordinance may be filed by any method provided for filing of complaints, including without limitation with the Personnel Department or, in the case of a complaint against an officer or employee of the Somerville Police Department, the Department's Internal Affairs office, who shall investigate the complaint and take appropriate disciplinary action.

(g) Reporting.

Beginning on the date of passage of this ordinance and every six months thereafter, the Somerville Chief of Police shall submit a report, with the information detailed below, to the Mayor and the City Clerk and such report will be placed on the agenda of the next- occurring meeting of the City Council, with notification provided to the local immigration nonprofits in the city.

- (1) The total number ICE holds, administrative warrants, and notification requests lodged with Somerville Law Enforcement officials, organized by the reason(s) given for the request;
- (2) The total number of individuals detained on an ICE hold or administrative warrants, if any;
- (3) The total number of individuals transferred to ICE custody, if any; and
- (4) The total reimbursements received from the federal government pursuant to any granted hold, administrative warrant, or notification request, organized by case.

(h) Compliance with federal law.

Nothing in this ordinance shall be construed to violate any valid federal law, or to prohibit any city agency or department from providing another law enforcement agency citizenship or information status, consistent with 8 U.S.C. section 1373.

(i) Other.

The provisions of this ordinance shall be effective immediately upon passage.

All policies, practices, procedures, directives, and training necessary to effectively and faithfully implement this ordinance shall be promptly developed and promulgated by the Administration, the Somerville Police Department, and all other relevant entities.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Approved:

President, City Council