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Hamtramck, MI Code of Ordinances

## **CHAPTER 38: COMMUNITY PARTICIPATION IN LOCAL GOVERNMENT AND LOCAL LAW ENFORCEMENT**

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### **§ 38.001 SHORT TITLE.**

This chapter may be cited as the Community Participation In Local Government and Local Law Enforcement Chapter.

(Ord. 2008-1, passed 1-22-2008)

### **§ 38.002 PURPOSE AND INTENT.**

It is the policy of the city to respect the rights of and provide equal services to all persons regardless of appearance, ethnicity, gender, immigration status, manner of dress, national origin, physical characteristic, race, religious beliefs or sexual orientation; to ensure the enforcement of rights under the United States Constitution, including due process and equal protection; to promote community safety; to encourage victims of crime and witnesses of crime to cooperate with law enforcement authority without regard to immigration status or sexual orientation; to prevent bias-based policing; and to promote the cooperation of all individuals, regardless of their

immutable characteristics, with our City Police Department and city government. In order to permit members of immigrant communities to access services, including, but not limited to law enforcement services, that are provided by the city to which they are entitled; and to ensure that city public servants are acting consistently with federal law regarding local governments cooperating with federal immigration authorities, the city enacts this chapter as an effective way to guide city public servants and police officers in adhering to rights under the United States Constitution, including, but not limited to, due process and equal protection and under federal law, while protecting the safety and health of all members of the community.

(Ord. 2008-1, passed 1-22-2008)

### **§ 38.003 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BLIGHT VIOLATION.** Any unlawful act, or omission or failure to act, which is designated by this code as a blight violation pursuant to § 41(2) of the State Home Rule Cities Act, being M.C.L.A. § 117.4(2).

**CITY.** The City of Hamtramck.

**CIVIL INFRACTION.** An act or omission that is prohibited by the code enacted by the city, which is not a crime as defined in § 5 of the State Penal Code, being M.C.L.A. § 750.5, and for which civil sanctions may be ordered.

**CRIMINAL OFFENSE.** A felony or misdemeanor as set forth in federal or state law of city ordinance, but does not mean a blight violation or civil infraction.

**PERSON.** Any individual including, but not limited to, victims and witnesses of crimes.

**POLICE OFFICER.** A sworn member or reserve member of the Police Department or any person acting upon the direction or any of these members of the Police Department.

**PUBLIC SERVANT.** The City Manager, Mayor, members of the City Council, the City Clerk, any member of a city agency, board, commission or other voting body that is established by the City Charter and any appointee, any employee or any individual who provides services to the city within or outside of its offices or facilities pursuant to a personal services contract;

(Ord. 2008-1, passed 1-22-2008)

### **§ 38.004 BIAS-BASED PROVISION OF POLICE AND OTHER CITY SERVICES, ON THE BASIS OF APPEARANCE, ETHNICITY, GENDER, IMMIGRATION STATUS, MANNER OF DRESS, NATIONAL ORIGIN, PHYSICAL CHARACTERISTICS, RACE, RELIGIOUS BELIEFS OR SEXUAL ORIENTATION PROHIBITED; EXCEPTION.**

Public servants and police officers shall not exercise differential treatment of individuals in rendering police and other city services based on a person's appearance, ethnicity, gender, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs or sexual orientation. A public servant, who is a police officer, shall not base reasonable

suspicion for an investigative detention, probable cause for an arrest or any other police action, solely on a person's appearance, ethnicity, gender, immigration status, manner of dress, national origin, physical characteristic, race, religious beliefs or sexual orientation. A public servant, who is a police officer, may take into account the reported appearance, gender, ethnicity and immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs or sexual orientation for the purpose of identifying a described individual.

(Ord. 2008-1, passed 1-22-2008) Penalty, see § 38.999

### **§ 38.005 SOLICITATION OF IMMIGRATION STATUS BY PUBLIC SERVANTS AND POLICE OFFICERS PROHIBITED; EXCEPTIONS.**

Public servants and police officers:

(A) Shall not solicit information concerning immigration status for the purpose of ascertaining a person's compliance with federal immigration law;

(B) Shall not solicit information concerning immigration status from a person who is seeking police and other city services, or is a victim or is a witness; and/or

(C) Notwithstanding the prohibitions set forth in divisions (A) and (B) above of this section, public servants, who are police officers, are expressly permitted to engage in the following activities, which shall not constitute a violation of this chapter:

(1) Solicit information concerning immigration status when performing public safety functions while assisting federal law enforcement in the investigation of a criminal offense under the United States Code or other federal law; and/or

(2) Solicit information concerning immigration status from the subject of a criminal offense or when processing an arrested person.

(Ord. 2008-1, passed 1-22-2008) Penalty, see § 38.999

### **§ 38.006 SOLICITATION OF IMMIGRATION STATUS BY PUBLIC SERVANTS PROHIBITED; EXCEPTIONS.**

(A) A public servant is prohibited from inquiring into the immigration status of any person or engaging in activities designed to ascertain the immigration status of any person, while acting within the scope of his or her authority or employment, as a public servant.

(B) Notwithstanding the prohibitions set forth in division (A) above of this section, public servants are expressly permitted to engage in the following activities, which shall not constitute a violation of this chapter:

(1) Solicit information concerning immigration status where specifically required by a federal, state or city law or program as a condition of eligibility for the service sought;

(2) Solicit information concerning immigration status for the purpose of completing I-9 Forms, and when relevant, in making hiring and payroll withholding decisions, including, but not limited to, completing I-9 Forms, questioning a person to complete the I-9 Form, obtaining

documents that support the I-9 Form, and allowing federal authorities to audit an I-9 Form in accordance with law;

(3) Solicit information concerning immigration status for a subpoena issued in a criminal proceeding, civil litigation or an administrative proceeding for the production of city documents or for testimony of a public servant, including where related to immigration issues or other security issues; or

(4) Solicitation of information concerning immigration status by a public servant, who is a police officer, as set forth in § 38.005.

(Ord. 2008-1, passed 1-22-2008) Penalty, see § 38.999

### **§ 38.007 IMPLEMENTATION OF CHAPTER.**

This chapter shall be implemented by the City Manager or his or her designee through ongoing training and educational programs to inform public servants regarding its prohibitions and requirements.

(Ord. 2008-1, passed 1-22-2008)

### **§ 38.999 PENALTY.**

People may file a formal complaint with the city if they have information that they believe, in good faith, establishes a violation of this chapter. Any complaint must be in writing, and filed with the City Manager or his or her designee. The complaint may be filed by mail or electronic mail, hand delivered, through an elected official or by a third party. The complaint statement need not be in English, and in the case of complaints not filed in English, the city shall cause the complaint to be translated into English at no expense to the complainant. The City Manager shall investigate all complaints and either affirm or deny the complaint within ten working days of the receipt of the complaint, in writing and report the disposition to City Council by or before the next regularly scheduled City Council meeting. If the complaint is denied, the City Manager shall explain, in detail, how the investigation was conducted and why the complaint was denied. If the complaint is affirmed, appropriate disciplinary action shall be taken against the employee or official for violation of city policy. Any disciplinary action shall be carried out in accordance with the provisions of the City Charter and other laws, city personnel rules, civil service rules, union contracts or other departmental agency rules and regulations and may include discipline up to and including discharge from public service. A copy of the denial or affirmation shall be mailed to the complainant at the address provided by the complainant in their written complaint. In addition, all employees shall receive a copy of this chapter and shall sign a statement acknowledging the receipt of the copy within 30 days of the effective date of this chapter or at the time of hire. The city shall, on an on going and annual basis, provide diversity training for all employees and officials. No employee and official shall be exempt, and the City Manager shall maintain a record of all training including the list of attendees at the training sessions.

(Ord. 2008-1, passed 1-22-2008)