

Proposed Amendments to Bill No. 260061

Matter to be added by amendment in **Bold**
Matter to be deleted by amendment in ~~Strikethrough~~

AN ORDINANCE

Amending Title 10 of The Philadelphia Code, entitled “Regulation of Individual Conduct and Activity,” and amending Title 11 of The Philadelphia Code, entitled “Streets,” to prohibit immigration enforcement on City and City-related property and facilities, to prohibit immigration enforcement in the right-of-way and provide for civil enforcement of violations, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 10 of The Philadelphia Code is hereby amended to read as follows:

TITLE 10. REGULATION OF INDIVIDUAL CONDUCT AND ACTIVITY

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CHAPTER 10-800. SAFETY.

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§ 10-849. Prohibiting Immigration Enforcement in City-Owned or Operated Spaces.

(1) Definitions. The following definitions shall apply to this Section:

(a) City-owned or controlled property. Any property identified as owned or controlled by the City of Philadelphia including, but not limited to:

(.1) Non-public areas of ~~B~~-buildings;

(.2) Parking lots;

(.3) Garages;

(.4) Parks;

(.5) Vacant lots;

(.6) Playgrounds;

~~(.7) Libraries;~~

~~(.8) Buses;~~

~~(.9) Schools operated by the School District of Philadelphia, charter schools, or City-funded or licensed pre-schools;~~

~~(.10.7) Property within the jurisdiction of the City operated by the City Controller, Sheriff, City Commissioners, or Register of Wills.; and~~

~~(.11) Any other property identified as being “owned” or “controlled” by the City of Philadelphia.~~

~~(b) Immigration enforcement. Any action pertaining to execution of immigration-related federal law, including enforcement or processing of individuals based on their immigration status shall be construed to mean, for the purposes of this Section:~~

~~(.1) Processing;~~

~~(.2) Operations;~~

~~(.3) Questioning;~~

~~(.4) Staging;~~

~~(.5) Raids;~~

~~(.6) Arrests; and~~

~~(.7) Any other activities deemed necessary to conduct federal immigration enforcement.~~

(b) Staging area. An area that is used to assemble, mobilize, and deploy vehicles, equipment, or materials, and related personnel, for the purpose of carrying out civil immigration enforcement operations.

~~(c) Municipal Authority. An authority established by the City of Philadelphia pursuant to Pennsylvania Municipality Authorities Act, 53 Pa. C.S. § 5601 et seq.~~

(c) Processing location. Except for City airport facilities subject to contrary federal law or municipal regulations, an area that is used for activities such as the identification, intake, processing of documentation, detention, arrest, or temporary holding of individuals in connection with civil immigration enforcement operations.

(d) Operation base. An area that is used to plan, coordinate and execute civil immigration enforcement activities.

(e) City designee. The highest-ranking manager or official designated by a City Agency to serve as the authorized representative for purposes of communicating with immigration enforcement agents regarding requests under this Section, and at least one alternate manager or official to serve in their absence.

(f) City agency. Any City department, agency, division, commission, council, authority, committee, board, or officer of the City of Philadelphia, or other body established by authority of ordinance, executive order, or Charter.

(g) Contractor or subcontractor. Any person or entity that receives City funds or is party to, or a subcontractor for, an agreement to provide services or goods to, or on behalf of, the City

(h) Judicial warrant. A warrant based on probable cause and issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge appointed pursuant to Section 631 of Title 28 of the United States Code.

(2) It is unlawful to use No City-owned or controlled property for the purposes of staging, conducting or assisting federal immigration enforcement activities shall be used as a staging area, processing location, or operations base for civil immigration enforcement.

(3) It is the intent of this Council that any Municipal Authority authorized by Resolution or Ordinance by the City of Philadelphia shall engage in the following project, pursuant to the Pennsylvania Municipal Authorities Act, P.L. 282, No. 22 § 5607(c) (d): To follow any authorizing authority resolution or ordinance, without allowing immigration enforcement authorities onto property held by the Municipal Authority absent judicial warrant, or expending any resources for purposes or in support of immigration enforcement, including but not limited to providing authorization for immigration enforcement actions such as staging at properties held by Municipal Authorities, to the extent permitted by state or federal law.

(4) Agencies and Departments, as designated by the Mayor, are authorized to identify property that has been, and is likely to be used by, immigration enforcement. Each identified City-owned or controlled property shall have clear signage to this effect stating the following: "This property is owned and controlled by the City of Philadelphia. It may not be used for immigration enforcement activities."

(3) City agencies shall collaborate to identify City-owned or controlled property that either have been used, or are likely to be used in the future, as a staging area, processing location, or operations base for the purpose of civil immigration enforcement. Departments and Agencies shall ensure that all such properties have clear signage stating:

This property is owned or controlled by the City of Philadelphia. It may not be used for civil immigration enforcement as a: Staging Area, Processing Location, or Operations Base

(4) Departments and Agencies shall ensure that, wherever appropriate, physical barriers, such as locked gates, are used to limit access to Philadelphia-owned or controlled property consistent with this Section.

(5) Within 30 days of passage of this Act, City agencies shall develop the procedures necessary to implement this Act. These implementing procedures shall provide that any Philadelphia employee who becomes aware of the attempted or actual use of a Philadelphia-owned or controlled property as a staging area, processing location, or operations base for civil immigration enforcement shall immediately report to their supervisor, who will communicate with the City Solicitor.

(6) This section does not apply to property that is subject to an existing lease or concession agreement to which the City of Philadelphia is a party. This Section is not intended to, and shall not be interpreted to, interfere with any such lease or agreement.

(7) Certification. Any City agency, contractor, or subcontractor shall promptly notify the Office of the Mayor and City Council if any City-owned or controlled property is used as a staging area, processing location, or operations base for the purpose of civil immigration enforcement.

(8) Nothing in this Section shall be construed as restricting or interfering with the execution of lawful judicial warrants or the enforcement of criminal law, nor as limiting the rights of any person or entity under state or federal law. This Section does not prohibit the lawful use of Philadelphia-owned or controlled property for purposes other than a staging area, processing location, or operations base for civil immigration enforcement, nor does it restrict any person or entity from carrying out functions unrelated to those purposes on such property.

(59) ~~Exclusive right of enforcement. The City Solicitor shall possess the exclusive right to~~ Private right of action. The City Solicitor or any individual aggrieved by a violation of this Section or any entity a member of which is aggrieved by a violation of this Section may bring a civil action in a court of competent jurisdiction against a county, city, department or agency that employs a person violating this ~~Chapter~~ Section and no individual City employee or agent acting within the scope of their employment, and without authority as a City Designee, shall be subject to civil liability under this subsection. The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date the complainant knew or should have known of the alleged violation.

(610) Remedies.÷ A court of competent jurisdiction may order the following remedies:

(a) An order requiring the county, city, department or agency to cease and desist the

unlawful practice;

(b) Payment of compensatory or punitive damages, provided that an aggrieved person shall make a reasonable effort to mitigate any damages;

(c) Payment of reasonable attorneys' fees;

(d) Payment of court costs;

(e) Payment of a fine not to exceed two thousand dollars (\$2,000) for each violation; ~~and~~

(f) Revocation of a contract with a City contractor or subcontractor, or the barment of future contracts for a period of time not to exceed five years; and

(fg) Other equitable relief, including, but not limited to, the dismissal or removal from office of the law enforcement officer.

(711) Severability. If any provision of this ~~Section~~Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the ~~Section~~Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this ~~Section~~Chapter are declared severable.

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SECTION 2. Title 11 of The Philadelphia Code is hereby amended to read as follows:

TITLE 11. STREETS

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CHAPTER 11-700. Right-of-Way Management.

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§ 11-701. Prohibiting Immigration Enforcement in City-Owned or Operated Spaces

(3) Use Authorized. No ROW Registration shall confer any exclusive right, privilege or license to occupy or use the Right-of-Way for any purpose; or mean or include any exclusive right or privilege of transacting and carrying on any business within the City; or explicitly or impliedly preclude or affect the City's right to authorize use of the Right-of-Way by other Persons to own, construct, operate, maintain, and/or provide the same or different Facilities or Services, or for other purposes as the City determines appropriate; or affect the City's right to itself construct, operate or maintain any type of Facilities or offer any type of Services in the Right-of-Way, with or without a ROW Registration; or authorize, or excuse any entity from securing, such further easements, leases, permits or other approvals as may be required by applicable law or regulation to occupy and use the Right-of-Way; or convey any right, title or interest in any Right-of-Way greater or other than the access granted by the ROW Registration.

*(a) The City hereby determines that appropriate use of a Right-of-Way shall not include use of such spaces ~~for immigration enforcement activities~~ **as a staging area, processing location, or operations base for civil immigration enforcement**, to the extent permitted by state or federal law.*

SECTION 3. This Ordinance shall take effect 60 days after it becomes law.