CITY OF SALEM, MASSACHUSETTS

Kimberley Driscoll
Mayor

February 9, 2017

Honorable Salem City Council
Salem City Hall
Salem, Massachusetts 01970

Ladies and Gentlemen of the City Council:

Enclosed please find a proposed ordinance, *Sanctuary for Peace: A Human Rights Declaration,* that is being submitted for your review and consideration following weeks of discussions and outreach with a coalition of community leaders, many of whom have signed on to show their support for this action.

The question of how we treat our neighbors, how we treat one another, is the moral basis of our government. Are we advancing policies that keep our community safe, or will we allow the corrosion of community policing in the name of fear? Are we providing services impartially to all who walk through the doors of City Hall, or do we pick and choose who is deserving of public services? When we adopted – unanimously – our landmark non-discrimination Ordinance just a few short years ago, Salem sent a clear message that we collectively viewed Salem as a City that valued community safety, inclusivity, and equal protection under the law. "What is this life?" asked famed Salem Reverend William Bentley shortly after the American Revolution, "A storm at sea! Let us help each other." The matter before the City Council now asks simply: will we help?

Here, in summary, are the components of this Ordinance:

1. City services are to be provided to all residents who so qualify, regardless of immigration status, unless provision of said service violates state or federal law. This, in many respects, adds immigration status to our existing non-discrimination Ordinance.

2. City employees shall not ask for immigration status from a resident in providing a service, unless they are required to do so by state or federal law.
3. Salem Police officers shall abide by existing Police Department policy that states that members of the Police Department shall not undertake immigration-related investigations, nor shall they routinely inquire of any person their specific immigration status during normal police operations unless required by law.
4. In compliance with existing federal law, the City shall not discriminate in employment matters on the basis of immigration status and all persons hired by the City shall be required to verify identity and eligibility to work in the United States.
5. Nothing in the Ordinance shall confer additional benefits to immigrant residents of Salem.
6. An Inclusion Advisory Community shall be formed to advise City officials on how best to provide services and information in a manner that protects and supports the civil rights of all residents.
7. Nothing in the Ordinance shall violate state or federal law or result in a loss of federal funding to the City.

Perhaps no other place in America has the same relationship with the tragic lessons of what can transpire when those in power reject these values. 325 years ago, Salem struggled with a crisis that saw fear used as weapons against those who were perceived to be different. We hope the lessons and the legacy from our own tragic historic episode here in Salem can serve as a cautionary example. Distrust, division, and hate will never create a more secure environment in our city. In fact, it will only undermine it.

In Salem, we continue to view local law enforcement through a community policing lens. We know that when local law enforcement is able to foster strong, collaborative relationships with the communities that they protect, everyone is safer. If local police were to play a role in enforcing federal laws related to deportation it would only serve to erode trust in local law enforcement among many of our immigrant families. We do not want our immigrant friends and neighbors to fear calling police or be less likely to report crimes or cooperate with local law enforcement. Moreover, we don't expect Salem Police to enforce any other federal laws, including federal tax laws, federal labor laws, federal workplace safety rules or, by and large, any other violation of federal law.

To be clear, nothing in this proposal prevents federal authorities from enforcing federal laws and policies in Salem. Nothing in this proposal prohibits Salem Police from sharing information with federal officials. It is entirely possible, indeed desirable, for local police to communicate with and collaborate with federal law enforcement authorities. However, it is not the role of our local police department to be enforcing federal law. In fact, the 10th Amendment to our Constitution ensures that no federal statute or executive order can compel or commandeer a local police force to carry out a federal policy. This separation of powers was so important to our Founders that it was incorporated in the Bill of Rights itself.

Further, this Ordinance does not violate federal law or executive order. This proposed ordinance will not disqualify the City from any federal funding. It does not protect any criminal – whether or not they are an undocumented resident – from deportation. And it does not shield undocumented residents who are found guilty of a criminal act from deportation pursuant to federal statute.

Beyond the public safety arguments, it has also been proven that cities that welcome and include immigrants are more prosperous than those that do not, with higher median incomes, lower poverty levels, and slightly lower unemployment rates. There is a reason why our most diverse cities in America are also our most prosperous, our hubs of innovation and growth, and the lifeblood of our national economy and the social service programs that millions of Americans, in red states and blue states alike, rely upon to survive. When communities protect all of their residents, all of their residents see economic benefits. When communities enact policies that keep families intact, the household's economic integrity is enhanced, contributing to the enhancement of the community's economic integrity.

While Salem is known for its rich and diverse history, we also benefit from a rich and diverse immigrant population over our nearly 400-year history. Salem was founded by immigrants and built by immigrants. Our shores have welcomed waves of newcomers from all manner of nations and continents, all of whom helped to shape our community's economic and social fabric and all of whom continue, to this day, to bring cultural and linguistic diversity to our streets, our neighborhoods, and our schools.

As the Council continues this public conversation about how our community will treat those who live among us who were not fortunate enough to have been born here, we hope we will do so with respect and an awareness that our incredible city has a nearly four century legacy of being a safe and welcoming home to immigrants seeking a place in America to make a better life for themselves and their families. We won't turn our backs on that legacy. And we won't turn our backs on them.

We believe that rhetoric that targets a segment of our population because of their immigration status, or their race, or their faith – because of *who* they are – is directly contrary to the values of our community and of our country.

In Salem, 'equal rights' is not just a slogan. It is a value that inspires us to tangible, meaningful action, and it is deeply and directly connected to our history. From a town where neighbors once turned so viciously and so terribly on each other, we have become, instead, a community where we turn toward each other. The legacy that marred Salem then is part of what drives the positive actions we take today to lift up our City: Salem is not and never ought to be a place for hate.

Robert Kennedy said, "We must recognize the full human equality of all our people before God, before the Law, and in the Councils of our government. We do this not because it is economically advantageous – although it is – and not because the laws of God or Man command it – although they do… We must do it for the single and fundamental reason that it is the right thing to do." There could be no more true test of that sentiment than this.

Sincerely,

Kimberley Driscoll
Mayor
City of Salem

David Eppley
City Councillor
Ward Four

CITY OF SALEM, MASSACHUSETTS
Kimberley Driscoll
Mayor

February 7, 2017

The following individuals/organizations have signed on to support the adoption of the proposed Sanctuary for Peace Ordinance:

Congressman Seth Moulton

State Representative Paul Tucker

Deb Amaral, Salem School Committee

Jim Fleming, Salem School Committee

Mary Manning, Salem School Committee

Patrick Schultz, Salem School Committee

Kris Wilson, Salem School Committee

Dr. Brendan Walsh, Salem School Committee

Police Chief Mary Butler

Fire Chief Dave Cody

Superintendent Margarita Ruiz, Salem Public Schools

Patricia Meservey, President, Salem State University

Dan Monroe, Director & CEO, Peabody Essex Museum

Gregg S. Meyer, M.D., Interim President, North Shore Medical Center

Alexandra Pineros Shields, Executive Director, Essex County Community Organization

Ana Nuncio, President, Latino Leadership Coalition (LLC)

Lucy Corchado, LLC member and Chair, Point Neighborhood Association

Rev. Silvestre Romero, St. Peter's Church and Latino Leadership Coalition member

Rev. Jeff Barz-Snell, Pastor, First Church

Rev. Joseph Amico, Pastor, Tabernacle Congregational Church

Episcopal City Mission

Jeff Cohen, Chair, No Place for Hate Committee

Beth Kontos, President, Salem Teachers Union

Charity Lezama, Executive Director, Salem YMCA

Joanne Scott, Executive Director, Boys & Girls Club of Greater Salem

Linda Saris, Executive Director, Salem LEAP for Education

Kara McLaughlin, Executive Director, House of Seven Gables

Mickey Northcutt, Executive Director, North Shore CDC

Bob Rivers, CEO, Eastern Bank

Nicole Lashomb, editor *Rainbow Times,* No Place for Hate Committee member

Gricel Ocasio, publisher *Rainbow Times*, No Place for Hate Committee member

Jason Etheridge, Executive Director, Lifebridge

Mary Margaret Moore, Executive Director, Independent Living Center of the North Shore/Cape Ann

Steve Harrington, Executive Director, North Shore Alliance of Gay, Lesbian, Bisexual, and Transgender Youth (nAGLY)

Salem Award Foundation for Human Rights and Social Justice

Salem Chamber of Commerce

North Shore Labor Council

Patricia A. Gozemba, Courting Equality and SAFE

Karen Kahn, Courting Equality and SAFE

Jim Bostick, No Place for Hate Committee member

Michael Millet, No Place for Hate Committee member

Salem Public Schools

February 6, 2017

A Proclamation

WHEREAS, the Salem Public Schools are committed to every child by creating a safe and welcoming place where all children are valued, appreciated and encouraged;

WHEREAS, Salem Public Schools' teachers and leaders are here to support all students to reach their fullest potential;

WHEREAS, the Salem Public Schools welcome and celebrate the diversity of our students whose native language represents thirty-four countries and dialects;

WHEREAS, the Salem Public Schools are committed to educating every student regardless of citizenship and national origin; and,

NOW, THEREFORE, as MEMBERS of the SALEM SCHOOL COMMITTEE, WE DO HEREBY PROCLAIM, as follows:

That Salem Public Schools on this day, February 6, 2017, and forever in the future, shall continue to be a school district that welcomes and recognizes the value and contributions of all students, including immigrants, who strengthen our schools and our community.

FURTHER, We hereby express our support for the City of Salem adopting the attached Sanctuary for Peace Ordinance, which re-affirms our City's commitment to ensuring that municipal services shall be accessible to all residents, regardless of immigration status and specifically limits City employees from inquiring about immigration status in the performance of daily tasks, unless required to do so by Federal or State statute, regulation or court decision.

Adopted by a vote of 7 in favor, 0 opposed
Salem School Committee
School Committee Chambers, Collins Middle School
February 6, 2017

City of Salem

In the year Two Thousand and Seventeen

An Ordinance relative to providing city services regardless of immigration status and the formation of an Inclusionary Advisory Committee.

Be it ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 2- Administration is hereby amended by adding the following new Article:

"ARTICLE XVII. CITY SERVICES RELATED TO IMMIGRATION STATUS; INCLUSIONARY ADVISORY COMMITTEE

Sec. 2-2060. Purpose.

To reaffirm existing policies and provide guidance to City employees on protecting all residents' access to police protection and public services.

Sec. 2-2061. Preamble.

WHEREAS, Salem is a welcoming City that serves and protects its residents regardless of their immigration status and country of origin;

WHEREAS, in Salem, all people, including immigrants, are valued contributors and are vital to our shared prosperity;

WHEREAS, according to the latest United States Census Data, approximately 26% of Salem residents describe themselves as Hispanic/Latino, Black/African American, Asian, American Indian/Alaskan Native or Native American or are comprised of two or more races;

WHEREAS, 15% of Salem residents have a country of origin outside the United States and are proud to call Salem their home and live peacefully as our neighbors, colleagues, and friends;

WHEREAS, Salem Public Schools currently teach students who speak 33 different languages, reflecting the approximately 1,200 students within the Salem school district for whom English is not their first language;

WHEREAS, we know there are youth living in Salem and/ or attending Salem State University that have received temporary status through the Deferred Action for Childhood Arrivals (DACA) program and they deserve an opportunity to have a bright future and to

contribute their time and talent to make Salem a prosperous City of innovation and growth;

WHEREAS, the vitality of the City of Salem, increasingly ethnically, racially and religiously diverse and has been built on the strength of its immigrant communities;

WHEREAS, The City and its public safety personnel value and recognize that the cooperation of and communication with all persons, both documented citizens and those without documentation status, is essential to achieve the City's goals of ensuring the health, safety, and welfare of all, and the protection of life and property, the prevention of crime and the resolution of problems;

WHEREAS, Salem desires to maintain and foster a culture and environment where our immigrant and refugee residents can fully participate in and be integrated into the social, civic, and economic fabric of their adopted City;

WHEREAS, the City of Salem does not believe in the unwarranted identification, detention, and deportation of residents in good standing and/or the separation of families that may result;

WHEREAS, no person living, visiting or working in Salem should ever fear calling public safety personnel for assistance; and

Now therefore, be it Ordained by the City of Salem:

Sec. 2-2062. Policy.

(a) City employees shall serve all residents and City services shall be accessible to all residents, regardless of immigration status or identity, including ancestry, race, ethnicity, national origin, color, age, sex, sexual orientation, gender variance, marital status, physical or mental disability, or religion, unless providing such service is prohibited by State or Federal statute, regulation, or court decision.

(b) City employees shall not ask for information about immigration status in the performance of daily tasks unless required to do so by Federal or State statute, regulation or court decision. City employees, with the exception of police officers, shall continue the longstanding practice to refrain from inquiring about the immigration status of any person. Police officers shall abide by Police Department Policy #138.

(c) Salem public safety personnel, including police and fire fighters, recognize and value as their first priority, the safety, protection and security of all Salem residents, regardless of one's country of origin. No person living, visiting or working in Salem should ever fear calling public safety personnel for assistance. Further, local public safety personnel recognize that being able to have clear and open communication with any and all Salem residents is the most effective way to ensure the health, safety and welfare of the entire community.

(d) The Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for the City, as an employer, to discriminate with respect to hiring, firing, or recruitment or referral for a fee, based on an individual's citizenship or immigration status. Consistent with Federal law, all persons hired by the City of Salem will be required to verify identity and eligibility to work in the United States and to complete an employment eligibility verification document form upon hire. The City affirms that employment eligibility verification will occur only after an offer to hire has been made, unless citizenship status is required of the position by law or regulation.

(e) City department heads shall use tools at their disposal, including meetings and trainings, to direct their staff to comply with the City's policies described above. A communication shall be issued by City department heads to their staff upon adoption of this Ordinance.

Sec. 2-2063. Policy Limitations; Severability.

(a) No provision continued herein shall condition additional benefits to immigrant or refugee residents in the City of Salem.

(b) No provision contained herein shall violate Federal or State statutes, regulations or case law nor impact Federal funding.

(c) As provided in Sec. 1-9 of this Code, the sections, paragraphs, sentences, clauses and phrases of this Article are severable, and if any phrase, clause, sentence, paragraph or section of this Article shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Article.

Sec. 2-2064. Inclusion Advisory Committee; Creation.

(a) The Mayor shall establish an Inclusion Advisory Committee to advise her and City department heads in their efforts to protect the civil liberties and civil rights of all Salem residents and provide supportive services and information as necessary to communities of color, people with disabilities, women, LGBTQ residents, people of low-income, persons of differing religious beliefs or practices, immigrants and refugees, particularly in light of potential changes in Federal government policy and operations.

(b) The Committee shall provide advice on initiatives including, but not limited to, the following:

1) Developing a comprehensive public awareness effort around anti-hate speech and hate crimes, and bias-based incidents;

2) Collaborating with immigrant and refugee community stakeholders and community based organizations to identify priority needs and opportunities to partner within municipal activities; and

3) Strengthening efforts to ensure that Salem remains an inclusive and equitable City in support of immigrants and their civil rights and civil liberties."

SALEM POLICE

DEPARTMENT MANUAL

CHAPTER 138.0

DATE OF ISSUE	EFFECTIVE DATE
02/02/17	02/02/17

SUBJECT: IMMIGRATION LAWS AND THE ROLE OF THE SALEM POLICE DEPARTMENT

ISSUING AUTHORITY: Mary E Butler

REFERENCE(S): CALEA 26. 1. 3

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X NEW ☐ AMENDS ☐ RESCINDS

I. PURPOSE

A. The Salem Police Department Mission and Policy

"The primary purpose of the Salem Police Department is to provide a high level of safety, security and service for all members of the community. It is the police...who have the sworn duty to directly apply and execute the law fairly and objectively for the benefit of the entire community. This task has become one of the most difficult and most demanding responsibilities in the public service."(1)

"The delivery of police services to the community is a unique and complex undertaking. The reputation of the organization is fundamentally dependent upon the personal conduct and professional competence of its individual officers. It requires that police officers conduct themselves at all times within the limitations of their police authority. They cannot act outside of, above or beyond their lawful authority and any abuse of their police powers violates the authority entrusted to them."(2)

"The police are the most visible and most readily accessible representatives of local government. As such we are tasked with protection life and safeguarding property; preventing and controlling crime; providing immediate response to public emergencies; advancing a cooperative relationship with the general public; and creating a sense of safety and security for the entire community."(3)

These excerpts from the Salem Police Department Rules and Regulations provide the background for the expectations of fair and unbiased treatment of all residents regardless of race, religion, gender, age, ethnicity, sexual identity, and status in the United States. The policies and procedures and rules and regulations of the Salem Police Department do not provide for a differentiation in the application of services to anyone; all service is equal.

We are aware that, over the course of our City's history, many of our residents have emigrated to our community from other countries for a myriad of reasons and that many have become naturalized citizens of the United States and others have yet to attain permanent legal status. We have long recognized, valued and respected the diversity and cultural differences in the Salem community and as a police department we are committed to providing the best public service to all the City's residents regardless of any preconceived biases of others.

**Note: 1, 2, 3 –Salem Police Department Rules and Regulations, Forward and Section 1, pages 3 &4*

In furtherance of our Community Policing philosophy, we seek to ensure all our residents understand the mission of and receive the encouragement of the Department to seek and to obtain police assistance when needed. Residents will receive fair and equitable treatment throughout any and all interactions from all members of the Department without exception. We recognize that some individuals may remain in the shadows and fear police due to prior experiences from their country of origin and a political climate that leads to concerns about anticipated treatment or outcome. We recognize unreported crimes will only increase the likelihood of continued victimization. We rely on the input and cooperation of all our residents, regardless of status in the United States, in order to ensure crimes are solved, offenders are held accountable, and victims and witnesses can feel safe and have access to the appropriate resources available to them. Therefore, consistent with past practice, the Salem Police Department has reduced to written form the policy that we have always undertaken with regard to treatment of all individuals regardless of immigration status.

I. POLICY

A. Federal Jurisdictional Authority vs. Local Law Enforcement Jurisdictional Authority

The Salem Police Department recognizes the "truism" of the 10th Amendment of the U.S. Bill of Rights that provides that powers delegated to the Federal Government are under their control. Federal Immigration Laws fall under the purview and the enforcement jurisdiction of the Federal Government, and, as such, there is no authority or power of a local law enforcement entity of any state to enforce said laws. This was affirmed in a ruling by the Supreme Court in *U.S. v. Arizona* which held that the federal government had the sole authority to enforce both border and immigration law. Therefore, in compliance with this decision and in fostering trust within the community, consistent with past practice and our authority, the Salem Police Department shall not undertake immigration-related investigations, nor shall they routinely inquire of any person their specific immigration status during normal police operations unless required by law.

This prohibition of enforcing federal law does not impede the ability of the Salem Police Department to cooperate with, provide information to, or receive from any local, state or federal agency information regarding citizenship or immigration status, consistent with 8 U.S.C.§ 1373. As immigration enforcement falls under the direct authority of the federal government, Officers will communicate and cooperate with DHS-ICE when: (1) formally requested as part of an on-going investigation; (2) notifying federal officials of serious situations that may present a public safety threat to a group, community, state, or the nation; or (3) in any other instance required by law.

II. PROCEDURE:

A. Statement of Police Standards

Every resident or visitor shall be free to obtain the assistance of the Salem Police Department without regard to the individual's citizenship or documented or undocumented status in the United States. Therefore, Officers should employ unbiased standards, including:

1) Officers I, should not consider immigration status in exercising their discretionary authority to arrest, summons, issue a warrant, or to take no action;
2) Officers will not arrest or detain a person based solely on their immigration status;
3) Officers will not engage in the surveillance of an individual solely for the purpose of identifying or confirming their legal status. Immigration status will never be the primary reason to initiate an investigation;

4) Officers shall not question any individual about his or her specific citizenship or immigration status unless that individual is:
   a. **Arrested** for any reason as consistent with the Booking Procedures. The Booking Officer will ascertain the country in which the individual is a citizen to ensure the arrested person is provided their due process rights to confer with the Consulate of their country contemporaneous to the arrest and in compliance with SPD P.P.# 111.0 Consulate Notification. Immigration status is not a relevant matter pertaining to the arrested person's due process rights by law;
   b. **Arrested** for any reason as consistent with the Booking Procedures and requirements of the Fingerprint Procedures for the LiveScan data entry in compliance with SPD P.P.# 5.0 Fingerprinting and Photographing Prisoners. Officers will ascertain the country in which the individual is a citizen, immigration status is not a relevant matter;
   c. A direct or indirect **Victim** (Affected Witness) of a qualifying crime who is cooperating with the investigation and is eligible for the Police Department or District Attorney's Office to make application for federal U-Visa protections in compliance with SPD P.P.# 132.0 U-Visa; or
   d. Victim of a **civil rights violation or hate crime** based on ethnicity, race or ancestry or bias-motivated threats, intimidation, coercion and violence, consistent with M.G.L. c. 265, §39 and SPD P.P.# 72.0 Handling Civil Rights Violations and P.P.#78.0 Hate Crimes; and

5) Officers have no reason to ask any individual for his or her visa, resident alien card, or travel documents unless:

   a. Identification is **required by law** and other standard forms of identification are unavailable or when proceeding under Section III (B), herein;
   b. An operator of a lawfully stopped motor vehicle presents what appears to be a **valid Foreign Country's Driver's License** in which the license is valid in this state for only one (1) year and requires the operator to produce proof to the investigating officer of the most recent admission date to the United States in order to competently calculate the one year time period; and
   c. Making application for a municipal license where verification of identification is required consistent with SPD P.P# 5.5 Fingerprinting Municipal License Applicants and no other forms of identification are available.

B. Notification to Federal Immigration Authorities

In accordance with Salem Police Department's Policy and Procedure, 89.0 Identification and Prevention of Biased Based Profiling, the Salem Police *"Department is committed to protecting the constitutional and civil rights of all. Allegations of bias based profiling or discriminatory practices, real or perceived, are detrimental to the relationship between the police and the communities they serve, because they strike at the basic foundation of public trust. This trust is essential to effective community based policing,"(4)*

As a result of the aforementioned, in conjunction with the Salem Police Department's jurisdictional authority and restrictions not to *"act beyond their lawful authority,"* Salem Police Officers will communicate with DHS-ICE when:

1) The individual is determined to be a **public safety risk** to the community, the state or the nation, and the Salem Police Department, other City officials, or law enforcement personnel are in possession of information to support that contention;

Note - (4) - Salem Police Department Policies and Procedures Manual, C. 89.0, Identification and Prevention of Bias Based Profiling, pg 1*

2) The individual has been arrested for a violent felony by the Salem Police Department;
3) The individual has been arrested by the Salem Police Department and there is reliable information that the individual in custody has been **convicted of any violent felony or multiple felony convictions or has a violent felony case pending;**
4) The individual is arrested for **terrorism-related offenses** or is reasonably suspected of involvement in any terrorist activities;
5) The individual is arrested for **Human Trafficking** or arrested on other charges with reasonable suspicion that the individual is or has been involved in Human Trafficking of any kind;
6) The individual is reasonably suspected of **participating in criminal street gang activity** in furtherance of the gang's illegal activity;
7) The individual is arrested for **Drug Trafficking** or arrested on other charges but there is an open ongoing investigation reasonably suspecting, using the legal standard, that the individual is involved in Drug Trafficking;
8) The individual is arrested and **is a substantial threat** to any person, group, or the community; or
9) As otherwise required by law.

C. DHS-ICE Request the Assistance of Salem Police Department

1. The Department of Homeland Security – Immigration and Customs Enforcement (DHS-ICE) agency is responsible for the enforcement of all Border and Immigrations Laws.
2. DHS-ICE tactical operations for civil enforcement of federal immigrations laws falls solely under the jurisdictional enforcement authority of the federal government. Therefore, the assistance of the Salem Police Department is not needed unless:

   a. A response from the Department is requested on a temporary basis for **Officer Safety or Public Safety** purposes only and officers are not actively engaged in the enforcement efforts;
   b. To assist in the apprehension of any individual who has an active **Criminal Warrant** that can be found in the Massachusetts Criminal Warrant (WMS) which remains in full force and effect at the time of the request;
   c. To provide requested support, not participation, for DHS-ICE to affect the arrest of an individual with an **administrative warrant** and there is a request for Officer Safety or Public Safety reasons;
   d. The Salem Police Department requests the assistance of DHS-ICE to address or take into custody and individual that is believed to be a **public safety threat**; or
   e. Any other action so directed by law.