

NEW YORK STATE DEPARTMENT OF STATE

Local Law Filing 162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~

~~City~~

Town of New Paltz

~~Village~~

Local Law No. _____ of the year 2017

A local law TO ADD A NEW CHAPTER 16, "IMMIGRATION AND DETENTION"
TO THE CODE OF THE TOWN OF NEW PALTZ

Be it enacted by the Town Board of the

~~County~~

~~City~~

Town of New Paltz as follows:

~~Village~~

Section 1.

The Code of the Town of New Paltz is amended to add a new Chapter 16, "Immigration and Detention" to read as follows:

§16-1. Legislative Purpose and Intent

The purpose and intent of this Article is to recognize the importance of fostering a town that is welcoming and inclusive for all individuals, regardless of nationality or citizenship status, and to ensure, to the greatest extent permitted by law, that immigration enforcement is a function of the federal government and not the Town of New Paltz.

The below text clarifies and codifies existing New Paltz Police Department policies as well as maintain the values of those who founded the Town. The English word refugee derives from the root word refuge, from Old French refuge, meaning "hiding place." It refers to "shelter or protection from danger or distress," In Western history, the term was first applied to the French Huguenots.

§16-2. Definitions.

When used in this article, the following terms shall have the following meanings: ~~indicated:~~

CIVIL IMMIGRATION DETAINER (also called a “CIVIL IMMIGRATION WARRANT”)

A detainer issued pursuant to 8 C.F.R. § 287.7 or any similar request from ICE or CPB for detention of a person suspected of violating civil immigration law.⁵

CBP

U.S. Customs and Border Protection, including any successor federal agency(s) tasked with immigration, customs, and/or border enforcement.

JUDICIAL WARRANT

A warrant based on probable cause and issued by an Article III federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant. A judicial warrant does not include a civil immigration warrant, administrative warrant, or other document signed only by U.S. Immigration and Customs Enforcement (“ICE”) or Customs and Border Protection (“CBP”) officials.

ICE

U.S. Immigration and Customs Enforcement, including any successor federal agency(s) tasked with immigration, customs, and border enforcement.

NPPD

New Paltz Police Department, including entities, efforts, and initiatives jointly operated or pursued by officers of the New Paltz Police Department, acting in their official capacity, and others (e.g., the Joint Special Weapons and Tactics Team).

PROBABLE CAUSE

More than mere suspicion or that something is at least more probable than not. Probable cause and “reasonable cause,” as that latter term is used in the New York State criminal procedure code, are equivalent standards.

§16-3. Prohibition of certain enforcement activities.

1. NPPD shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
 - a. Actual or suspected immigration or citizenship status; or
 - b. A “civil immigration warrant,” administrative warrant, or an immigration detainer in the individual’s name, including those identified in the National Crime Information Center (NCIC) database;
2. NPPD shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual;
3. NPPD shall not perform the functions of a federal immigration officer or otherwise

engage in the enforcement of federal immigration law, whether pursuant to Section 1357(g) of Title 8 of the United States Code or under any other law, regulation, or policy.

§16-4. Civil immigration detainer requests.

1. IMMIGRATION DETAINERS ACCOMPANIED BY JUDICIAL WARRANT:

NPPD may respond affirmatively to a “civil immigration detainer” from ICE or CBP to detain or transfer an individual for immigration enforcement or investigation purposes for up to 48 hours ONLY IF the request is accompanied by a judicial warrant;

2. IMMIGRATION DETAINERS WITHOUT JUDICIAL WARRANT:

NPPD may detain a person for up to forty-eight (48) hours on a “civil immigration detainer” in the absence of a judicial warrant if:

- a) There is probable cause to believe that: (1) the individual has illegally re-entered the country after a previous removal or return as defined by 8 U.S.C. § 1326 and (2) the individual has been convicted at any time of (i) a “violent felony” as defined in subdivision 1 of Section 70.20 of the Penal Law of the State of New York; or (ii) a federal crime or crime under the law of another state that would constitute a predicate felony conviction, as defined under the New York Penal Law for any of the preceding felonies; or
- b) There is probable cause to believe that the individual has or is engaged in terrorist activity.

§16-5. ICE or CBP requests for certain non-public, sensitive information

1. NPPD may respond affirmatively to an ICE or CBP request for non-public information about an individual—including but not limited to non-public information about an individual’s release, home address, or work address—only if the request is accompanied by a judicial warrant provided, however, that nothing in this law prohibits NPPD from:

- a. sending to or receiving from any local, state, or federal agency ~~as per~~ pursuant to 8 U.S.C. § 1373 (i) information regarding an individual’s country of citizenship; or (ii) a statement of the individual’s immigration status; or
- b. disclosing information about an individual’s criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order; or

- c. disclosing information about an individual's juvenile arrests or delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order.
2. NPPD shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform agency duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.

§16-6. Questioning individuals in custody solely for immigration enforcement purposes.

NPPD shall not provide ICE or CBP with access to an individual in its custody or the use of NPPD facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal immigration law.

§16-7. Due process and notice

1. NPPD shall not delay bail and/or release from custody upon posting of bail solely because of (i) an individual's immigration or citizenship status, (ii) a civil immigration warrant, or (iii) an ICE or CBP request for notification about, transfer of, detention of, or interview or interrogation of that individual.
2. Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, NPPD shall provide a copy of that request to the individual named therein and inform the individual whether NPPD will comply with the request before communicating its response to the requesting agency.
3. Individuals in NPPD's custody shall be subject to NPPD's booking, processing, release, and transfer procedures, policies, and practices, regardless of actual or suspected citizenship or immigration status.

§16-8. Prohibition on the use of Towns resources.

Neither the NPPD nor any town personnel may use Town funds, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

§16-9. Collection of immigration-related information; access to Town benefits and services.

- A. Town personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

§16-10. Collection and reports of data.

1. NPPD shall record, solely to create the reports described in subdivision 2, below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:
 - a. the subject individual's race, gender, and place of birth;
 - b. date and time that the subject individual was taken into custody, the location where the individual was held, and the arrest charges;
 - c. date and time of NPPD receipt of the request;
 - d. the requesting agency;
 - e. immigration or criminal history indicated on the request form, if any;
 - f. whether the request was accompanied by any documentation regarding immigration status or proceedings, e.g., a judicial warrant;
 - g. whether a copy of the request was provided to the individual and, if yes, the date and time of notification;
 - h. whether the individual consented to the request;
 - i. whether the individual requested to confer with counsel regarding the request;
 - j. NPPD's response to the request, including a decision not to fulfill the request;
 - k. if applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to, the individual; and
 - l. date and time of the individual's release from NPPD's custody.
2. NPPD shall provide annual reports to the Police Commission and the Town Clerk, who shall make the same publicly available, regarding the information collected in subdivision 1, above in an aggregated form that is stripped of all personal identifiers in order that NPPD and the community may monitor NPPD's compliance with all applicable law.

§16-11. Enforcement.

Any member of the NPPD, municipal officer or employee who violates any provision of this chapter may be disciplined in accordance with the provisions of an applicable collective bargaining agreement or, in the case where an officer or employee is not covered by a collective bargaining agreement, in the manner provided by law.

Section 2. Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court or competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other person or circumstances and the Town Board hereby declares that it would not have enacted this local law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

Section 3. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.