

Prohibition on Use of City Facilities for Immigration Enforcement

Policy No. [To be assigned by CMO after policy finalization]

City Manager Administrative Policy

Bend Code Chapter 1.30.005 provides for 'City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.' All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:

Reviewed by Legal Counsel:

Eric King, City Manager

Ian Leitheiser, City Attorney

Dated: _____

Dated: _____

Policy No.

Revised:

Adopted:

Revision No.

Owner: [Department; Division/Position Title *(optional)*]

I. Purpose

This Policy applies the prohibition on use of City facilities for certain civil immigration activities under ORS 181A.826.

II. Policy Statement

City facilities may not be used for the purpose of investigating, detecting, apprehending, arresting, detaining or holding individuals for immigration enforcement.

Bend is committed to upholding state and federal law, and promoting a safe and welcoming atmosphere, where all people including immigrants and refugees, are welcomed, accepted, and encouraged to participate fully in civic life. This policy supports these commitments and implements Oregon law, and the City of Bend's Welcoming City resolution, and orderly administrative and business operations.

The public should be aware that prohibiting use of publicly accessible spaces is beyond the City's legal authority, and the City cannot control or prohibit federal immigration activities within the City generally.

The City condemns the indiscriminate and increasingly violent, and likely unlawful, civil immigration enforcement tactics which are occurring across the country and in Oregon. These tactics are causing significant impacts on the health and well-being of the community, including fear and actual harm to families, neighbors, businesses, and the community at large.

Unauthorized use of City Property to facilitate civil immigration enforcement actions interferes with the City's authority over, and its use of, its own resources, property, and personnel, and is inconsistent with and undermines both the spirit and intent of State law and the City's Welcoming Resolution, and erodes trust between immigrant communities and the City and local law enforcement, weakening relationships that are essential to ensuring public safety and administration of the City's business on behalf of the public. All City staff, including first responders, are required to comply with state law, and not assist with civil immigration enforcement.

This policy is intended to clarify and provide direction about the application of State law to City-owned property and facilities, and to clearly state that City Property may not be used for Civil Immigration Enforcement Activities.

III. SCOPE

This policy applies to all City property and individuals who may be on City property for any reason, including City employees, contractors, and visitors.

IV. Definitions

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- A. "Civil Immigration Enforcement Activities" means investigating, detecting, apprehending, arresting, detaining or holding individuals for immigration enforcement without a judicial warrant, order, or subpoena as described in ORS 181A.823 (1)(c)(A), and includes staging, processing, or establishing or using an operations base for such activities. For purposes of this policy "staging" includes assembling, mobilizing, and/or deploying vehicles, equipment, or materials, and related personnel for the purpose of carrying out operations for the enforcement of federal immigration laws. For parking lots, staging means any activity that is beyond parking of vehicles while accessing an associated facility or area served by the parking lot and walking to and from parked vehicles without delay. Such spaces are not available to the general public for similar activities, and federal, state, or local government entities or personnel will not receive special or enhanced access to city property for operations enforcing federal immigration laws.
- B. "City Property" includes all real property, land, and public facilities owned, leased to and under the control of the City, or managed by the City including City parking lots or parking structures, but for purposes of this Policy does not include City owned or managed rights-of-way.
- C. "Areas not open to the public" means portions of City Property that are restricted to the public by access control systems or have been otherwise closed to the public or otherwise restricted to public access.

V. Policy Terms & Provisions

- A. City Property may not be used for Civil Immigration Enforcement Activities, and may not be authorized for such use under City Manager Administrative Policy No. CF-0001, Use of City-Owned Facilities.
- B. Use of City Property for Civil Immigration Enforcement Activities constitutes a violation of both state law and, therefore, would also violate City Manager Administrative Policy No. 2023-5, Code of Conduct for City Policy, which states "No person shall engage in any activity that would constitute a violation of any federal, state, or local law or regulation."
- C. Areas of City Property not open to the public may not be accessed for Civil Immigration Enforcement Activities, without a judicial warrant authorizing access to the area for a search and/or seizure of a specific person.
- D. City staff are not authorized to provide access to non-public spaces for purposes of civil immigration enforcement.
- E. City parking lots that are or may be accessible to the public or entities engaged in civil immigration enforcement should have clear signage stating the following, or a substantially similar message:

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

- F. City Departments are directed to ensure, wherever appropriate, physical barriers such as locked gates are used to limit access to City-owned and controlled parking lots, vacant lots, or garages, consistent with this Policy.
- G. The City's policy for staff response to Civil Immigration Enforcement Activities on City Property is as follows:
 - 1. Publicly available areas
 - a. Nothing in this Policy prohibits use of City rights-of-way, including public streets and sidewalks, for Civil Immigration Enforcement Activities, or arrests or apprehension of individuals for civil immigration infractions, consistent with federal law and without the use of City moneys, equipment, technology or personnel. Prohibiting use of such publicly accessible spaces is beyond the City's legal authority, and the City cannot control or prohibit federal immigration activities within the City generally. This also means that federal agents and officials can use publicly accessible areas of City Property in the same manner as all members of the public. This includes parking vehicles in parking lots for accessing the associated facilities or areas of town and entering public areas of City-owned buildings, including to apprehend people subject to administrative or judicial warrants.
 - b. If City staff witness federal agents or officers present at City property, staff should inform their supervisor, who will reach out to their Department Director, Real Estate & Facilities Director, or City Manager. Staff should call police if they witness threats to public safety, and inform their supervisor.
 - c. The Department Director, City Manager, the Real Estate & Facilities Director, or the designee of any of them, or any sworn peace officer as defined by Oregon law, may enforce the provisions of this Policy by informing immigration officers or agents of the policy and directing them to leave the City Property on which Civil Immigration Enforcement Activities are occurring in violation of this policy. If any person who has been directed to leave does not leave, police may be called to assist in removing trespassers.
 - d. No City employee may interfere or impede federal officers or agents in enforcing this policy or the provisions of state law.
 - e. In addition to the procedure specified in this Policy, Civil Immigration Enforcement Activities on City Property may also be responded to under Policy No. 2023-5.
 - 2. Non-public areas
 - a. If an employee is approached by immigration officers and/or agents seeking access to an area not open to the public, with or without a warrant, the employee staff should inform their supervisor, who will reach out to their

Department Director, Real Estate & Facilities Director, or City Manager, who will attempt to reach the City Attorney's Office. Except as specified in this policy, City staff are not authorized to provide access to non-public spaces for purposes of civil immigration enforcement.

- b. The Department Director, Real Estate & Facilities Director, or City Manager, in consultation with the City Attorney's Office if available, will ask for a judicial warrant, signed by a judge, and authorizing immigration enforcement activities, including search and/or seizure, of a specific person, at the location and on the date the enforcement activity is occurring.
 - c. If such a warrant is not provided, and another exception to the warrant requirement does not apply, the City employee and Department Director, Real Estate & Facilities Director, or City Manager, must deny consent for immigration enforcement officials to access non-public areas of City property.
 - d. City employees must not impede or interfere with federal officers or agents, including if they ignore the employee's direction and forcibly enter non-public areas.
 - e. City employees are not required or encouraged to but are not prohibited from recording activities of immigration officers or agents on City Property, and such recordings may be subject to the public records laws of Oregon and should be provided to a supervisor following any interaction governed by this Policy.
3. After any interaction with immigration enforcement officers or agents, staff must document the date, time, and interaction in writing to the supervisor and the City Attorney's Office.
 4. The Department Director, Real Estate & Facilities Director, or City Manager and/or City Attorney's Office will report the Civil Immigration Enforcement Activities to the Oregon Department of Justice, as deemed appropriate by the City Attorney.
- H. Nothing in this Policy 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.
- I. This Policy does not prohibit the lawful use of City Property for purposes other than Civil Immigration Enforcement Activities, and does not restrict any person or entity from carrying out functions unrelated to those purposes or from using City Property for purposes related to City functions.



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