

COUNTY OF [LAWFUL]
STATE OF [STATE]

ORDINANCE NO. 2007-____

An Ordinance to amend the Code of Ordinances of [Lawful] County to add Section [00-000] et. seq.; to establish a policy of full cooperation between County law enforcement and federal immigration enforcement agencies; to require verification of the immigration status of persons detained for violations of state or County law; to prohibit restrictions on official communication by County officials and personnel with federal immigration authorities; to require negotiation of a cooperative agreement with the United States Department of Homeland Security; and to provide for a private remedy to halt non-cooperation in contravention of the purposes of this ordinance by County agencies.

BE IT ORDAINED by the [Lawful] County Board of Commissioners and it is hereby enacted pursuant to the authority of the same that the Code of Ordinances of [Lawful] County is hereby amended by adding thereto the following:

SECTION 1. FINDINGS.

The following findings shall be included in the Code of Ordinances as Section [00-001]:

WHEREAS, the [State Code], Section [xx-x-xxx], states that [a local jurisdiction may // provide for the protection of its inhabitants and property and for the preservation of peace and good order therein // adopt measures to secure the safety and general welfare of its inhabitants that are not in conflict with the laws of this State];

WHEREAS, the [Lawful] Board of County Supervisors has determined that illegal immigration is causing economic hardship and lawlessness in this county and that illegal immigration is encouraged and induced by public agencies within

this county that provide public services without verifying immigration status;
WHEREAS, federal law requires that certain conditions be met before an alien may be authorized to be lawfully present in the United States. Those conditions are found principally at United States Code Title 8, Section 1101, et. seq. Illegal aliens, as described by federal law, do not meet such conditions as a matter of law when present in the County;

WHEREAS, in 1996 Congress amended the Immigration and Nationality Act to require the federal government to verify the immigration status of any alien upon the request of a state, county, or municipality, for any purpose authorized by law. United States Code Title 8, Section 1373(c). The federal government has established several systems available to the County to accomplish this obligation, including the Systematic Alien Verification for Entitlements (SAVE) Program and the Law Enforcement Support Center (LESC).

SECTION 2. COMPLIANCE AND SUPPORT FOR ENFORCEMENT OF FEDERAL IMMIGRATION LAW

The following shall be included in the Code of Ordinances as Section [00-002]:

- a. All officials, agencies, and personnel of the County shall fully comply with and, to the full extent permitted by law, support the enforcement of federal law prohibiting the entry into, presence or residence in the United States of aliens in violation of federal immigration law.
- b. Incident to any lawful detention for a violation of a state law or a county ordinance, County police officers shall inquire into the citizenship or immigration status of the detained person, regardless of the person's national

origin, ethnicity, or race, where such inquiry does not expand the duration of the detention. In all such cases where a person indicates that he or she is not a citizen or national of the United States, the police department shall verify whether or not the person is lawfully present in the United States, pursuant to United States Code Title 8, subsection 1373(c). If the person is verified to be unlawfully present in the United States, the police department shall cooperate with any request by federal immigration authorities to detain the alien or transfer the alien to the custody of the federal government.

SECTION 3. OFFICIAL USE OF INDIVIDUAL IMMIGRATION STATUS INFORMATION

The following shall be included in the Code of Ordinances as Section [00-003]:

Pursuant to United States Code Title 8, sections 1373 and 1644, no official, personnel or agent of the County, including officers and personnel of the police department, may be prohibited or in any way restricted from sending, receiving, or maintaining, information regarding the immigration status, lawful or unlawful, of any individual, or exchanging such information with any other federal, state or local government entity for the following official purposes:

- a. Determination of eligibility for any federal, state or local public benefit, service, or license which is restricted, in whole or in part, to persons who are not U.S. Citizens or non-qualified aliens, pursuant to [State] Code Section [xx-xx-xx1]; [State] Code Section [xx-xx-xx2]; and United States Code Title 8, section 1621;

b. Verification of any claim of legal domicile within the County by a person who asserts that he or she is not a citizen, national, or legal resident alien of the United States; where legal domicile is required by law or contract.

SECTION 4. AUTHORIZATION FOR COOPERATIVE AGREEMENT WITH U.S. DEPARTMENT OF HOMELAND SECURITY

The following shall be included in the Code of Ordinances as Section [00-004]:

- a. The police department of the County shall as quickly as practicable enter into a cooperative agreement with the United States Department of Homeland Security, pursuant to United States Code Title 8, subsection 1357(g), to designate specific County law enforcement officers as officers qualified to exercise the enforcement powers of federal immigration officers in the United States; and to establish a protocol for the expedited transfer of verified illegal aliens into federal custody.
- b. The police department may negotiate the cooperative agreement or participate in its implementation in partnership with other state or local law enforcement agencies.

SECTION 5. PRIVATE RIGHT OF ACTION

The following shall be included in the Code of Ordinances as Section [00-005]:

In addition to any other remedy which may be available under the laws of the State of [State], a natural or legal person lawfully domiciled in this County and aggrieved by a specific instance of failure of a County agency to comply with a requirement of this ordinance may file for a writ of mandamus to compel the non-cooperating County agency to comply with such requirement.

SECTION 6. DEFINITIONS

The following definitions shall be included in the Code of Ordinances as Section [00-006].

a. For the purposes of this Ordinance, the phrase *illegal alien* means an alien who is not lawfully present in the United States, according to the terms of United States Code Title 8, Section 1101 et seq. The County shall not conclude that an individual is an illegal alien unless and until an authorized representative of the County has verified with the federal government, pursuant to United States Code Title 8, Section 1373(c), such individual's immigration status.

SECTION 7. CONSTRUCTION AND SEVERABILITY

The following shall be included in the Code of Ordinances as Section [00-007]:

- a. The requirements and obligations of this section shall be implemented in a manner fully consistent with federal law regulating immigration and protecting the civil rights of all citizens and aliens.
- b. The County shall not construe this Ordinance to prohibit the rendering of emergency medical care or any other public benefit mandated by federal or state law, or the reporting of a crime or criminal activity to any law enforcement agency.
- c. If any provision of this ordinance is declared invalid, such invalidity shall not affect other provisions of this ordinance which can be given effect without

the invalid provision. The provisions of this ordinance are declared to be severable.