

**TOWN OF FRASER
ORDINANCE NO. 492
Series 2023**

AN EMERGENCY ORDINANCE AMENDING CHAPTER 19, LAND DEVELOPMENT
CODE OF THE FRASER MUNICIPAL CODE REGARDING SUBDIVISION
IMPROVEMENT AGREEMENT (SIA) TO BE IN ACCORDANCE WITH COLORADO
REVISED STATUTES

WHEREAS, the former statutory mandate that employers certify they would not hire “illegal aliens” for public contracts is now obsolete. With the passage of Senate Bill 21-199 in 2021, the legislature prohibited consideration of lawful presence when negotiating public contracts.

WHEREAS, Senate Bill 21-199 amended C.R.S. § 13-76.5-103 (“Lawful presence consideration prohibited”), to now say: Notwithstanding any law to the contrary . . . on or after July 1, 2022, lawful presence is not a requirement of eligibility for state or local public benefits, as those state or local public benefits are distributed by any state agency, political subdivision . . . , or home rule municipality. “Public benefit” is defined by federal statute to include “any . . . contract . . . by an agency of a . . . local government.”

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FRASER, COLORADO, THAT:

Part 1: AMENDMENT OF MUNICIPAL CODE.

Chapter 19 (Land Development Code), Appendix 3 of the Fraser Municipal Code (herein sometimes referred to as the "Municipal Code") is hereby amended as follows [Note: additions are shown in **bold underlined** print; deletions are shown as ~~strikethrough~~ print]:

Appendix 3, line item 40. Illegal Aliens.

~~Illegal Aliens. By its signature on this Agreement, Subdivider certifies that, as of the time of its signature, it does not knowingly employ or contract with any illegal alien who will perform work under this Agreement and that, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, Subdivider will participate in the e-verify program or department program, as defined in C.R.S. 8-17.5-101. Subdivider agrees that it shall not knowingly employ or contract with any illegal alien to perform work under this Agreement; and that it shall not enter into a contract with a subcontractor that fails to certify to Subdivider that the subcontractor shall not knowingly employ or contract with any illegal alien to perform work under this Agreement. Subdivider has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the e-verify program or department program, as defined in C.R.S. 8-17.5-101. Subdivider shall not use the e-verify program or department program procedures to undertake preemployment~~

~~screening of job applicants while work under this Agreement is being performed. If Subdivider obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Subdivider shall: (1) notify the subcontractor and the Town within three days that Subdivider has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (2) terminate the subcontract with the subcontractor if, within three days of receiving the notice required herein, the subcontractor does not stop employing or contracting with the illegal alien; except that Subdivider shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. Subdivider shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. 8-17.5-101 (5). If Subdivider violates a provision of this paragraph, the Town may terminate this Agreement for breach of contract. If the contract is so terminated, Subdivider shall be liable for actual and consequential damages to the Town. Subdivider understands that, in the event of such a termination, the Town is required to notify the office of the Colorado Secretary of State.~~

Part 2 Emergency Declaration. The Board of Trustees of the Town of Fraser hereby finds, determines and declares that in order to abide to Senate Bill 21-199 amended C.R.S. § 13-76.5-103 this emergency ordinance is necessary. The Board of Trustees further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Fraser.

Part 3: Effective Date. Pursuant to Section, C.R.S. § 31-16-105, this Ordinance shall take effect and be in full force upon adoption of this Ordinance by the affirmative votes of at least six (6) members of the Board of Trustees.

Part 4: Repeal. Any and all existing ordinances or parts of ordinances of the Town of Fraser covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed; provided, however, that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Part 5: Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Town of Fraser hereby declares that it would have adopted this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases thereof be declared invalid or unconstitutional.

Part 6: Publication of Ordinance. This ordinance shall be published in full within ten (10) days after adoption, or as soon thereafter as possible as required by law.

ADOPTED AND APPROVED as an Emergency Ordinance this ____ day of _____, 2023.

Votes in favor: ____
Votes opposed: ____
Votes abstained: ____

BOARD OF TRUSTEES OF THE
TOWN OF FRASER, COLORADO

BY: _____
Philip Vandernail, Mayor

ATTEST:

Antoinette McVeigh, Town Clerk

(S E A L)

Published in the *Middle Park Times* on _____.