

**CITY OF ROELAND PARK, KANSAS**

**ORDINANCE No. ~~1005~~, Version 2- Redline**

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**AN ORDINANCE ESTABLISHING THE “PROTECTING PUBLIC SAFETY AND  
COMMUNITY RESOURCES ACT”**

**WHEREAS**, the Governing Body of the City of Roeland Park, Kansas is charged with the public safety and general welfare of all residents of the City of Roeland Park; and

**WHEREAS**, Roeland Park recognizes and upholds the Fourth Amendment of the United States Constitution, guaranteeing the right of all persons to due process and protection against unreasonable searches and seizures, and does not condone any unlawful actions by the U.S. Immigration and Customs Enforcement (ICE) including detainer requests, or jail holds without probable cause, or a judicial warrant; and

**WHEREAS**, Roeland Park recognizes and upholds the Tenth Amendment of the United States Constitution, and the right of states and local governments to be free from mandates or financial obligation to perform the duties of the federal government, or to be threatened or coerced to do so by withholding federal funding; and

**WHEREAS**, it is a common and well-established policy of Roeland Park’s agencies, employees and officers, not to conduct the work of federal immigration enforcement, with limited exceptions where already required by state or federal law and in the interest of national security; and

**WHEREAS**, it is the intent of the Governing Body of the City of Roeland Park to build a community for all residents, without regard to a person’s age, race, national origin, religion, sex, sexual orientation, gender identity, disability, or immigration, housing, or financial status;

**WHEREAS**, the Governing Body of the City of Roeland Park values the hard work and dedication of the men and women of the Roeland Park Police Department (“RPPD”) in keeping our City safe by establishing a standard of community trust and collaboration which shall not be eroded; and

**WHEREAS**, in the interest of increased public safety, one purpose of this ordinance is to ensure that members of the public and RPPD officers and employees of the City clearly understand Roeland Park’s policies in regard to cooperation with federal immigration enforcement, prioritizing public safety and cooperation;

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE  
CITY OF ROELAND PARK, KANSAS:**

The Governing Body of the City of Roeland Park does hereby direct the implementation of this ordinance in accordance with the following provisions:

**DEFINITIONS.** As used in this Chapter:

(A) Alienage means the state or condition of not being a citizen of the United States.

(B) Immigration and Customs Enforcement (ICE) means the federal law enforcement agency primarily responsible for the enforcement of federal immigration laws.

(C) Immigration Status means matters regarding questions of citizenship of the United States or any other country and the authority to reside in or otherwise be present in the United States.

(D) Resident means any person whose primary place of habitation falls within the geographic boundaries of the City of Roeland Park, Kansas.

#### **SECTION 1 – FINANCES AND CITY SERVICES**

Unless required by Federal or state statute, regulation, or court decision, no department, agency, commission, officer, or employee of the City of Roeland Park shall:

(A) Use any City of Roeland Park funds or resources to assist in the enforcement of federal immigration law or to gather, transmit, or disseminate information regarding the immigration status of individuals in the City of Roeland Park.

(B) Collect immigration-related information in the provision of City services.

(C) Discriminate on the basis of alienage or immigration status. City employees will serve all residents and City services will be accessible to all residents regardless of alienage or immigration status.

(D) Require individuals to provide specific immigration identification, rather City employees shall accept any valid photo identification that provides the person's name and photo. This policy shall not apply to the completion of the federally mandated I-9 forms or in the presentation of lawful authorization to operate a motor vehicle within the City.

(E) Limit or restrict any service, benefit, or opportunity provided by the City and all City employees shall make available to all persons residing in the City any service, benefit or opportunity provided by the City, regardless of immigration status, unless otherwise required by law.

(F) Require any person making payment to the City to present a valid photo identification beyond any document containing the person's name and picture, which is issued by a government, whether municipal, state, federal, or foreign.

#### **SECTION 2 - DEPARTMENT PRACTICES**

This section addresses department operations within the City. All City departments, including any not specifically listed herein, and all City employees, shall abide by all applicable sections, including the general provisions set out in SECTION 1 herein.

(A) Roeland Park Police Department ("RPPD")

(1) RPPD shall not provide any resources or assistance to ICE officials for the sole purpose of enforcement of immigration or citizenship status. Nothing in this ordinance shall impede RPPD from responding or assisting when there is a specific threat to public safety or crime in progress. (2)

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Members of RPPD shall comply with the department's internal "Immigration and Enforcement Policy" and any other department policies applicable to immigration or immigrants.

(3) RPPD will seek to ensure that all persons who request the assistance of RPPD, including, but not limited to, persons who have been the victims of crime, shall feel safe in approaching the Police Department to seek help, report crimes, and aid in the investigation of offenses. Officers and personnel will not inquire about the national origin, citizenship, or immigration status of any individual who approaches the Department for assistance, including, but not limited to, persons who have been the victims of crime.

(4) The Roeland Park Police Department will not honor voluntary detainer requests nor will the RPPD assist ICE in immigration enforcement actions unless a specific threat to public safety is known.

(5) The enforcement of federal immigration laws is a matter that falls under federal jurisdiction and as such is outside the scope of duties of City employees, including Roeland Park police officers. The Roeland Park Police Department shall not enter into a Memorandum of Understanding with the United States under Section 287(g) of the Immigration and Nationality Act in order to enforce federal immigration law without the prior approval of the Governing Body. See 8 U.S.C. § 1357(g). 1-1004

(6) City law enforcement officers may respond to calls for assistance from federal immigration enforcement authorities to the extent necessary to keep the peace, protect public safety, or enforce any applicable state and City criminal laws beyond the scope of effectuating an immigration arrest. Nothing herein shall preclude RPPD from participating in coordinated law enforcement actions with federal law enforcement agencies, as long as the primary purpose of the coordinated action is the enforcement of City, state or federal criminal laws.

(7) The Roeland Park Police Department will provide an alert to the public, as soon as possible without violating state or federal law, of any communication of reported or planned civil immigration activity by ICE or other federal agencies working on immigration matters within the Department's jurisdiction, including a request for assistance, received by the Department from ICE or other federal agencies working on immigration matters which would result in contact with any individual or individuals within the City. The Roeland Park Police Department shall not provide an alert to the public where there is a specific threat to public safety or crime in progress. Such alert shall be followed by a publicly available report of the outcome of such communication or resulting contact. Such report shall be available within 48 hours of the resolution of the request or activity or once the request or communication has been completed. The form and content of the report shall be specified within Department policy.

(8) Nothing in this Ordinance will preclude Roeland Park Police Department officials from assisting or participating in judicial warrants and criminal investigations, nor will this Ordinance preclude Department of Homeland Security grant-procured items from being used as required by law.

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(B) Roeland Park Municipal Court

(1) The Roeland Park Municipal Court (Court) shall not inquire about the immigration status of any person charged with a crime except as otherwise required by law, to include, but not limited to, compliance with K.S.A. 21- 2501 and K.S.A. 12-4517 which require the Court to ensure a fingerprint card is completed upon a conviction of a class A or class B misdemeanor.

(2) In the event the Court becomes aware of a person's immigration status, the Court shall not initiate contact with federal immigration enforcement officials to report that information, except as otherwise required by law.

(3) The Court shall provide interpretation services for defendants who do not speak English, in compliance with the law. See K.S.A. 75-4351.

(4) When interpretation services are provided, no inquiry shall be made regarding the person's immigration status.

(5) The City prosecutor shall not initiate the transfer of immigration information to ICE, unless otherwise required by law.

(6) The City prosecutor shall negotiate plea agreements in a just and appropriate manner. A person's immigration status shall never be a bar to diversion programs.

(7) Public defenders under contract with the City, if any, shall be encouraged to affirmatively and competently advise defendants of the potential immigration consequences to criminal offenses, in compliance with applicable case law and any other applicable law addressing the duties of a criminal defense attorney in providing information regarding immigration. Public defenders under contract with the City should also advise such defendants to seek counsel from a trained immigration attorney. The City shall provide reference to a repository listing immigration attorneys that such defendants may contact, when appropriate.

#### (C) Parks and Recreation

(1) City facilities and services shall never be denied to any resident of the City on the basis of a person's immigration status.

#### (D) City Clerk

(1) A person's immigration status shall not prohibit such person from applying for and being granted a license, permit, or registration through the City Clerk's office, except as required by law.

(2) The City Clerk's office shall provide language translation services to any person upon request.

#### (E) Human Resources

(1) Roeland Park shall comply with federal and state laws regarding employment eligibility and employment records, such as the I-9 verification process, but shall not otherwise collect, inquire, or disseminate information about an applicant's immigration status.

### **SECTION 3 - SEVERABILITY**

If any section, sentence, clause, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction it shall not affect the validity of any remaining parts of this ordinance.

**SECTION 4 - NONLIABILITY AND REMEDIES**

This ordinance does not create or form the basis for liability on the part of the City, its agents, or agencies. The exclusive remedy for violation of this chapter shall be through the City's disciplinary procedures under regulations including but not limited to the City personnel rules.

**SECTION 5 – LEGAL COMPLIANCE**

Nothing in this law shall be construed to permit the violation of any federal or state statute, federal or state regulation, or federal or state judicial decision.

**SECTION 6 – EFFECTIVE DATE**

This ordinance shall take effect and be in force from and after its adoption and publication as provided by law.

**PASSED** by the City Council this 21<sup>st</sup> day of December, 2020. **Approved** by the Mayor.

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Mike Kelly, Mayor

**ATTEST:**

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Kelley Nielsen, City Clerk

**APPROVED AS TO FORM:**

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Steven E. Mauer, City Attorney