

Published

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ORDINANCE NO. 0-19-22

An ordinance relating to creating the “Safe and Welcoming City Act” Chapter 18 adding Sections 18-162 through 18-168 to the Code of Ordinances for the Unified Government of Wyandotte County/ Kansas City, Kansas.

Whereas, Wyandotte County and Kansas City, Kansas are an inclusive community that values immigrants and the diversity they bring to our cultural fabric, economic growth, and global competitiveness; and

Whereas, the Unified Government is committed to building a welcoming and neighborly atmosphere in our community, where all people, including immigrants, are accepted and able to access all Unified Government services regardless of their immigration status; and

Whereas, the Unified Government 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 is committed to upholding those rights for all even when presented with illegal or improper orders from federal agencies; and

Whereas, the Unified Government recognizes that under the Tenth Amendment of the United States Constitution states and local governments have the right 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, residents need to feel safe and protected by law enforcement when they seek services and that they will not be exposed to immigration enforcement, and

Whereas, the Unified Government recognizes that this Safe and Welcoming ordinance is necessary to build a community for all residents, without regard to age, race, national origin, religion, sex, sexual orientation, gender identity, disability, or immigration, housing, or financial status, and

Whereas, many residents of Wyandotte County, including the elderly and indigent, the homeless and the immigrant, as well as youth, especially those leaving foster care and ex-offenders lack photo IDs, making it very difficult for them to conduct normal daily activities.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/ KANSAS CITY, KANSAS:

Section 1. That Sections 18-162 through 18-168 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas, be as follows:

Chapter 18, Article III, Division 5- The Safe and Welcoming City Act

Sec. 18-162. Definitions.

As used in this Act, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Immigration and Customs Enforcement” or *“ICE”* means the federal law enforcement agency primarily responsible for the enforcement of federal immigration laws.

“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.

“Municipal ID card” shall mean an identification card issued by the Program Administrator selected by the Unified Government of Wyandotte County and Kansas City, Kansas that shall, at a minimum, display the cardholder’s photograph, name, date of birth, address, and an expiration date. Such card shall also, at the cardholder’s option, display the cardholder’s self-designated gender. Such identification card shall be designed in a manner to deter fraud.

“Non-citizen status” means the state or condition of not being a citizen of the United States.

“Resident” means any person whose primary place of habitation falls within the geographic boundaries of Kansas City, Kansas.

“Threat to public safety” means posing serious and imminent threat of injury or death to a human.

“Unified Government department” means a department under the exclusive control of the Unified Government Board of County Commissioners.

“Unified Government employee” means a full or part time employee of a department under the exclusive control of the Unified Government Board of County Commissioners.

“Unified Government resources” means funds, supplies, employees, premises, information, data, or equipment under the exclusive control of the Unified Government Board of County Commissioners.

“Unified Government service” means any benefit, service, opportunity, or resource provided by a department under the exclusive control of the Unified Government Board of County Commissioners.

Sec. 18-163 – Finances and City Services

1. Unless required by Federal or state statute, regulation, or court decision, no department, agency, commission, officer, or employee of the Unified Government shall:
 - a. Use any Unified Government resources for the sole purpose of enforcement of federal immigration law or to gather, transmit, or disseminate information regarding the immigration status of individuals in the Unified Government, except as otherwise required by law or as otherwise available to the general public.
 - i. This includes but is not limited to:
 1. Granting access to any restricted area of a Unified Government facility solely for immigration enforcement operations; or
 2. Providing information solely for the purpose of an immigration enforcement operation when the information is not available to the public or the agency under applicable law; or
 3. Establishing traffic perimeters for the sole purpose of an immigration enforcement operation.
 - b. Collect information about a person's immigration status in the provision of Unified Government services, including policing, unless immigration status is relevant to the crime being investigated or the collection of the information is required by law.
 - c. Discriminate based on non-citizen status or immigration status. Unified Government employees will serve all residents and Unified Government services will be accessible to all residents regardless of non-citizen status or immigration status.
 - d. Require individuals to provide specific immigration identification, rather Unified Government 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 Unified Government and all Unified Government employees shall make available to all persons residing in the City any service, benefit or opportunity provided by the Unified Government, regardless of immigration status, unless otherwise required by law.
 - f. Require any person making payment to the Unified Government 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. Nothing herein shall prohibit the Board of Public Utilities from requiring additional identification.
2. Within 120 days of the effective date of this ordinance, the Unified Government shall remove any questions regarding citizenship or immigration status, other than those required by law, from all applications, questionnaires, and interview forms related to Unified Government services.

3. If a Unified Government employee receives a request from ICE to provide assistance for the sole purpose of immigration enforcement and the assistance is not required by law or available to the general public, the employee shall report the request to a supervisor. The supervisor shall determine whether to grant or deny the request based on the following factors:
 - a. The public policy expressed by this Act
 - b. Whether a threat to public safety exists
 - c. Whether the form of assistance is commonly provided to other agencies

Sec. 18-164- Department Practices

1. Kansas City, Kansas Police Department (“KCKPD”)
 - a. KCKPD shall use its resources and authority to protect the public in Kansas City, Kansas, including residents without immigration status. It is not the mission of the KCKPD to enforce federal immigration law.
 - b. Members of KCKPD will limit involvement with undocumented persons to situations independent of civil immigration enforcement.
 - c. KCKPD will seek to ensure that all persons who request the assistance of KCKPD feel safe asking the KCKPD for help, reporting crimes, and aiding investigations. 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, except when doing so is necessary to gather facts relevant to the reported crime.
 - d. KCKPD will not publicly disclose information about an individual’s national origin, citizenship, or immigration status except as required by law.
 - e. The KCKPD shall not enter a Memorandum of Understanding with the United States under Section 287(g) of the Immigration and Nationality Act to enforce federal immigration law without the prior approval of the Governing Body.
 - f. KCKPD will not respond to call for assistance for federal immigration enforcement authorities to enforce immigration law but may respond to calls for assistance from federal immigration enforcement authorities to the extent necessary to mitigate a threat to public safety or enforce criminal laws beyond the scope of effectuating an immigration arrest. Nothing herein shall preclude KCKPD from participating in coordinated law enforcement actions with federal law enforcement agencies if the purpose is not solely enforcement of federal immigration law.
 - g. Nothing in this Ordinance will preclude KCKPD from assisting or participating in judicial warrants and criminal investigations.
2. Kansas City, Kansas Municipal Court
 - a. Unified Government employees of the Kansas City, Kansas Municipal Court shall not inquire about the immigration status of any person charged with a crime except as otherwise required by law.

- b. The Kansas City, Kansas Municipal Court does not support or condone and strongly discourages Unified Government employees of the Kansas City, Kansas Municipal Court from initiating contact with ICE based on information learned during their job duties.
 - c. Kansas City, Kansas Municipal Court shall provide interpretation services for defendants who do not speak English as required by law.
 - d. The City prosecutor shall not initiate the transfer of immigration information to ICE, unless required by law.
 - e. The City prosecutor shall negotiate plea agreements without regard to immigration status. A person's immigration status shall not be a bar to diversion programs.
 - f. Public defenders under contract with the Unified Government, if any, shall be encouraged to affirmatively and competently advise defendants of the potential immigration consequences of criminal offenses as required by applicable law. Public defenders under contract with the Unified Government should advise such defendants to seek counsel from an immigration attorney.
 - g. The Unified Government shall provide defendants with contact information for the Kansas Bar Association Lawyer Referral Service.
3. Parks and Recreation
 - a. Unified Government resources or services shall never be denied based on immigration status.
 4. City Clerk
 - a. 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.
 - b. The City Clerk's office shall provide language translation services to any person as soon as is practicable upon request.
 5. Human Resources
 - a. The Unified Government 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.

Sec. 18-165- Municipal Identification Card

1. The Unified Government of Wyandotte County/Kansas City, Kansas shall promulgate all rules necessary to effectuate the purposes of the municipal ID card program.
2. The Unified Government shall contract with a Program Administrator, a qualified, locally-based non-profit organization that is and tax-exempt under section 501(c)3 of the Internal Revenue Code, to administer the day-to-day operations of the municipal identity card program. That organization shall make applications for such card available for pick-up and submission at any agency or office where there is substantial contact with the public, shall also make applications available on-line, and shall follow all rules promulgated by the Unified Government for the operations of the program.

3. The municipal ID card shall be available to any resident of Wyandotte County, regardless of his or her race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, partnership status, any lawful source of income, housing status, status as a victim of domestic violence or status as a victim of sex offenses or stalking, or conviction or arrest record, provided that such resident is able to meet the requirements for establishing his or her identity and residency set forth in this section.
4. The Unified Government shall establish a reasonable application fee for municipal identity cards and adopt rules permitting residents who cannot afford to pay such fee to receive a full or partial waiver.
5. To obtain a municipal ID card an applicant must establish proof of identity and proof of residency within the county as follows:
 - a. Proof of identity. To establish identity, an applicant shall be required to produce one of the following documents that is an original or a copy certified by the issuing agency and be current or expired not more than 5 years prior to the date of the municipal ID card application:
 - i. a U.S. or foreign passport;
 - ii. a U.S. state driver's license;
 - iii. a U.S. state identification card;
 - iv. a U.S. permanent resident card (commonly known as a "green card") or I-551 permanent resident card;
 - v. a consular identification card;
 - vi. a photo identification card with name, address, date of birth, and expiration date issued by another country to its citizens or nationals as an alternative to a passport for re-entry to the issuing country;
 - vii. U.S. Citizenship and Immigration Services (USCIS) Employment Authorization Card (EAC) or I-765;
 - viii. U.S. certificate of naturalization;
 - ix. U.S. certificate of citizenship;
 - x. A national identification card with photo, name, address, date of birth, and expiration date;
 - xi. Released offender identification from the state department of corrections (with photo);
 - xii. U.S. or foreign military identification card (active duty, reserve or retired);
 - xiii. U.S. military dependent identification card;
 - xiv. U.S. Department of Veterans Affairs card;
 - xv. U.S. Department of Justice inmate identification card;

- xvi. Concealed carry permit issued by any state, territory or possession of the U.S.;
- xvii. Student ID card from an accredited education institution;
- xviii. Tribal driver's license or identification card;
- xix. Public assistance ID card issued by a government office.

b. If the applicant is unable to produce one of the documents listed above to establish identity, the applicant shall be required to produce two documents when taken together, that displays a current photograph of the applicant and name, and must display the applicant's date of birth. A document that demonstrates the applicant's identity must be an original or a copy certified by the issuing agency and be current or expired not more than 10 years prior to the date of the municipal ID card application:

- i. Birth certificate issued by any state, territory or possession of the U.S. (excluding hospital records/certificates and abstracts of birth);
- ii. A certified copy of a foreign birth certificate;
- iii. U.S. certificate of birth abroad (FS-240, 545 or DS-1350)
- iv. Tribal or Bureau of Indian Affairs affidavit of birth;
- v. U.S. military DD-214;
- vi. U.S. Social Security Administration card;
- vii. U.S. Selective Service card;
- viii. W-2 form issued by an employer in any state, territory or possession of the U.S.;
- ix. Medical insurance identification card;
- x. Professional license issued by any state, territory or possession of the U.S.;
- xi. Bank card issued by a bank that does business in any state, territory or possession of the U.S.;
- xii. Credit card issued by a bank that does business in any state, territory or possession of the U.S.;
- xiii. Marriage license or certificate;
- xiv. an electronic benefit transfer (EBT) card;
- xv. any other documentation that the administering agency deems acceptable;
- xvi. Student identification issued by any accredited educational institution;
- xvii. Employer ID;
- xviii. Union Membership Identification Card; or
- xix. any other documentation that the administering agency deems acceptable.

c. Proof of Residency. To establish residency, an applicant shall be required to produce one of the following items each of which must show the applicant's name and residential address located within the city and must be dated no more than sixty days prior to the date such document is presented, except as otherwise indicated in this paragraph:

- i. a utility bill;
 - ii. a current residential property lease;
 - iii. a local property tax statement dated within one year of the date it is submitted;
 - iv. a local real property mortgage payment receipt;
 - v. a bank account statement;
 - vi. proof that the applicant has a minor child currently enrolled in a school located within the city;
 - vii. an employment pay stub;
 - viii. a jury summons or court order issued by a federal or state court;
 - ix. a federal or state income tax or refund statement dated within one year of the date it is submitted;
 - x. an insurance bill (homeowner, renter, health, life, or automobile insurance);
 - xi. written verification issued by a homeless shelter that receives city funding confirming at least fifteen days residency;
 - xii. written verification issued by a hospital, health clinic or social services agency located within Wyandotte County confirming at least fifteen days residency; or
 - xiii. Any other documentation that administering office/agency deems acceptable.
6. The administering organization may create alternative methods by which individuals who are homeless can establish residency notwithstanding the lack of fixed address.
7. The Unified Government of Wyandotte County and Kansas City, Kansas shall not obtain or retain originals or copies of records provided by an applicant to prove identity or residency for a municipal identity card.
8. The Unified Government of Wyandotte County and Kansas City, Kansas shall not obtain, retain, or disclose information about municipal ID card applicants to any public or private entity or individual, including federal, state, or city immigration or law enforcement entities unless required by law.
9. In the event of litigation, the Unified Government shall require the Program Administrator to defend against the disclosure of such information to the maximum extent possible under the law. This protection shall extend to the municipal ID card application forms, information contained on those forms or obtained through the card application process, to the lists of individuals who hold or have applied for a municipal ID card, and to the fact of any individual's participation in the ID card program.
10. All Unified Government agencies and offices, and all municipal employees, including law enforcement officers, shall accept such card as proof of identity and residency.
11. The Unified Government shall seek to expand the benefits associated with the municipal identity card, including encouraging eligible persons to apply for the card and promoting the acceptance of the municipal identity card by banks and other public and private institutions.
12. Unified Government agencies and officers shall not require the possession of a municipal identity card where identification is not already required to obtain city services. Provided, however that agencies may require the possession of a municipal identity card to obtain

- benefits or privileges offered exclusively to those who possess a municipal identity card as an incentive to apply for a municipal identity card.
13. The Unified Government shall, consistent with applicable law, require the Program Administrator to provide language assistance to applicants for the municipal identity cards to facilitate access thereto. The administering organization shall identify and implement measures, including staff training, community outreach, and language assistance tools, to address the needs of limited English proficient individuals in the administration of the municipal identity card program.
 14. It is a violation of the code of ordinances under this section for any person or entity to undertake any of the following acts. Any person convicted of a violation of this section of this ordinance and amendments thereto shall be guilty of a class C misdemeanor and punished for that violation by a fine of no more than \$100 for each violation.
 - b. To knowingly present false information in the course of applying for a municipal ID card, or
 - c. To alter, copy, or replicate a municipal ID card without the authority of the Unified Government, or
 - d. To use the municipal ID card issued to another person, with the intent to cause a third person or entity to believe the holder of the card is the person to whom the card was issued.

Sec. 18-166 - 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.

Sec. 18-167- Nonliability and Remainders

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

Sec. 18-168 Legal Compliance

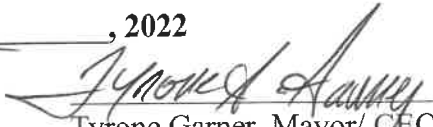
Nothing in this Act shall be construed to permit the violation of any federal or state statute, federal or state regulation, or federal or state judicial decision. The requirements of this Act do not apply under circumstances where the Unified Government must comply with a lawful condition or term imposed by a funding source, noncompliance of which may cause the Unified Government to lose funds from that source.

Section 2. Effective Date

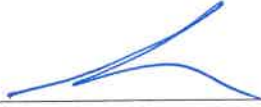
This ordinance shall take effect and be in force from and after its adoption and publication as provided by law.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/ KANSAS CITY, KANSAS**

THIS 22 DAY OF FEBRUARY, 2022

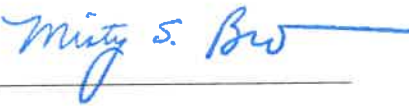

Tyrone Garner, Mayor/ CEO

Attest:



Unified Government Clerk

APPROVED AS TO FORM:



Misty Brown, Chief Counsel