

CITY OF SHAWNEE

ORDINANCE NO. 3289

AN ORDINANCE AMENDING CHAPTER 2.40 OF THE SHAWNEE MUNICIPAL CODE REGARDING FAIR HOUSING PRACTICES, TO ADD DISCRIMINATION PROTECTION FOR GENDER IDENTITY AND SEXUAL ORIENTATION TO THE EXISTING DISCRIMINATION PROVISIONS OF THE SHAWNEE MUNICIPAL CODE.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SHAWNEE, KANSAS:

PARAGRAPH 1. Chapter 2.40 of the Shawnee Municipal Code is hereby amended to read as follows:

Chapter 2.40 Fair Housing Policy

2.40.020 Definitions.

Definitions as used in this Chapter include:

- A. Discriminatory Housing Practice means an act that is unlawful under Sections 2.40.060 through 2.40.080 of this Chapter.
- B. Dwelling means any building, structure or portion thereof which is occupied as or designed or intended for occupancy, as a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.
- C. Familial Status means one (1) or more individuals who have not attained the age of eighteen (18) years being domiciled with:
 - 1. A parent or another Person having legal custody of such individual or individuals; or
 - 2. The designee of such parent or other Person having such custody, with the written permission of such parent or other Person. The protection afforded against discrimination on the basis of Familial Status shall apply to any Person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
- D. Gender Identity means the actual or perceived gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- E. Family includes a single individual;
- F. Handicap means, with respect to a Person:
 - 1. A physical or mental impairment which substantially limits one (1) or more of such Person's major life activities; or
 - 2. A record of having such an impairment; or

- 3. Being regarded as having such impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in the Controlled Substances Act, 21 U.S.C., Section 802).
- G. Person includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries;
- H. Real Estate Broker means any Person who, for a fee or other valuable consideration, sells, purchases, exchanges or rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange or rental of real property of another or holds himself or herself out as engaged in the business of selling, purchasing, exchanging or renting the real property of another, or collects rental for the use of the real property of another;
- I. To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.
- J. Sexual Orientation means an individual's actual or perceived (by the individual or another) emotional, romantic, or sexual attraction to other people, such as heterosexual, homosexual, bisexual, pansexual or asexual.

2.40.030 Application of Prohibition against Discrimination.

- A. Subject to the provisions of Sections 2.40.040 and 2.40.090, the prohibitions against discrimination in the sale or rental of housing set forth in Section 2.40.060 shall apply to all dwellings except as exempted by Section 2.40.040.
- B. The provisions of this Chapter shall not apply to a Religious Organization, defined to include, but not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study or advancement of religious practice or religious teaching.

2.40.040 Application of Section 2.40.060.

Nothing in Section 2.40.060, other than Subsection C, shall apply to:

- A. Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale, or who was not the most recent resident of such house prior to such sale, the exemption granted by this Subsection shall apply only with respect to one (1) such sale within any twenty-four (24) month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her

behalf under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of more than three (3) such single-family houses at any one (1) time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this Chapter only if such house is sold or rented:

1. Without the use in any manner of the sales or rental facilities or the sales or rental services of any Real Estate Broker, agent or salesman, or of such facilities or services of any Person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman or Person; and
 2. Without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of Section 2.40.060; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and any other such professional assistance as necessary to perfect or transfer the title; or
- B. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his or her residence.

2.40.050 Person in Business of Selling or Renting Defined.

For the purpose of Section 2.40.040, a Person shall be deemed to be in the business of selling or renting dwellings if:

- A. Such Person has, within the preceding twelve (12) calendar months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or
- B. Such Person has, within the preceding twelve (12) calendar months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or
- C. Such Person is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

2.40.060 Sale or Rental of Housing—Prohibited Activities.

As made applicable by Sections 2.40.030 through 2.40.050 and except as exempted by Sections 2.40.040 and 2.40.090, it is unlawful:

- A. To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any Person because of race, color, religion, sex, Gender Identity, Sexual Orientation, Familial Status, or national origin;
- B. To discriminate against any Person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion,

- sex, Gender Identity, Sexual Orientation, Familial Status, or national origin;
- C. To make, print or publish, or cause to be made, printed or published, any notice, statements or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference limitation, or discrimination based on race, color, religion, sex, Gender Identity, Sexual Orientation, Handicap, Familial Status, or national origin, or an intention to make any such preference, limitation or discrimination;
 - D. To represent to any Person because of race, color, religion, sex, Gender Identity, Sexual Orientation, Handicap, Familial Status, or national origin, that any dwelling is not available for inspection, sale or rental, when such dwelling is in fact so available;
 - E. For profit, to induce or attempt to induce any Person to sell or rent any dwelling by representations regarding entry or prospective entry into the neighborhood of a Person or Persons of a particular race, color, religion, sex, Gender Identity, Sexual Orientation, Handicap, Familial Status, or national origin;
 - F.
 - 1. To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a Handicap of: a. That buyer or renter; b. A Person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or c. Any Person associated with that buyer or renter;
 - 2. To discriminate against any Person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a Handicap of:
 - a. That Person;
 - b. A Person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or
 - c. Any Person associated with that Person;
 - 3. For purposes of this Subsection, "discrimination" includes:
 - a. A refusal to permit, at the expense of the Handicapped Person, reasonable modifications of existing premises occupied or to be occupied by any such Person if such modifications may be necessary to afford such Person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - b. A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such Person equal opportunity to use and enjoy a dwelling; or

- c. In connection with the design and construction of Covered Multi-family Dwellings for first occupancy after the date that is thirty (30) calendar months after the date of enactment of the Fair Housing Amendments Act of 1988 (enacted September 13, 1988), a failure to design and construct those dwellings in such a manner that:
 - i. The public use and common use portions of such dwellings are readily accessible to and usable by Handicapped Persons;
 - ii. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by Handicapped Persons in wheelchairs; and
 - iii. All premises within such dwellings contain the following features of adaptive design:
 - A. An accessible route into and through the dwelling;
 - B. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - C. Reinforcements in bathrooms walls to allow later installation of grab bars; and
 - D. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- 4. Compliance with the appropriate requirements of the American National Standard for building and facilities providing accessibility and usability for physically Handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph 3.c.iii of this Subsection;
- 5. As used in this Section, the term "Covered Multi-family Dwellings" means:
 - a. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators, and
 - b. Ground floor units in other buildings consisting of four (4) or more units;
- 6. Nothing in this Section shall be construed to invalidate or limit any law of the State, City or political subdivision of the State having lawful jurisdiction, that requires dwellings to be designed and constructed in a manner that affords Handicapped Persons greater access than is required by this Section;
- 7. Nothing in this Section requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

2.40.070 Financing of Housing—Prohibited Activities.

- A. In General. It is unlawful for any Person or other entity whose business includes engaging in Residential Real Estate-related Transactions to discriminate against any Person in making available such a transaction, or in the terms and conditions of such a transaction, because of race, color, religion, sex, Gender Identity, Sexual Orientation, Handicap, Familial Status, or national origin.
- B. Definition. As used in this Section, the term "Residential Real Estate-related Transaction" means any of the following:
 - 1. The making or purchasing of loans or providing other financial assistance: a. For purchasing, constructing, improving, repairing, or maintaining a dwelling, or b. Secured by real estate;
 - 2. The selling, brokering, or appraising of residential real property.
- C. Appraisal Exemption. Nothing in this Chapter prohibits a Person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, Gender Identity, Sexual Orientation, Handicap, or Familial Status.

2.40.080 Provision of Brokerage Services—Prohibited Activities.

It is unlawful to deny any Person access to or membership or participation in any multiple-listing services, Real Estate Brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, Gender Identity, Sexual Orientation, Handicap, Familial Status or national origin.

2.40.090 Exception to Chapter Application.

- A. Nothing in this Chapter shall prohibit a religious organization, association, or society, or any nonprofit institution, or organization, operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to Persons of the same religion, or from giving preference to such Persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this Chapter prohibit a private club not in fact open to the public which as an incident to its primary purpose, or purposes provides lodgings which it owns or operates for other than commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- B. Nothing in this Chapter limits the applicability of any reasonable local, State or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this Chapter regarding Familial Status apply with respect to Housing

for Older Persons. As used in this Section, "Housing for Older Persons" means housing:

1. Provided under any state or federal program that the United States Secretary of Housing and Urban Development determines is specifically designed and operated to assist elderly Persons (as defined in the state or federal program); or
 2. Intended for, and solely occupied by, Persons sixty-two (62) years of age or older; or
 3. Intended and operated for occupancy by Persons fifty-five (55) years of age or older; and
 - a. At least eighty (80) percent of the occupied units are occupied by at least one (1) Person who is fifty-five (55) years of age or older;
 - b. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this Subparagraph; and
 - c. The housing facility or community complies with rules issued by the Secretary of Housing and Urban Development for verification of occupancy, which shall
 - i. Provide for verification by reliable surveys and affidavits; and
 - ii. Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (b). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.
- C. Housing shall not fail to meet the requirements for Housing for Older Persons by reason of:
1. Persons residing in such housing as of September 13, 1988, who do not meet the age requirements of Subsections B(2) or B(3); provided, that new occupants of such housing meet the age requirements of Subsections of B(2) or B(3), or
 2. Unoccupied units; provided, that such units are reserved for occupancy by Persons who meet the age requirements of subdivisions B(2) or B(3).
- D. Nothing in this Chapter prohibits conduct against a Person because such Person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).
- E. A Person shall not be in violation of this Chapter if such Person reasonably relied, in good faith, on the application of the exemption stated in this Section related to Housing for Older Persons. For the purposes of this Subsection, a Person may only show good faith reliance on the application of the exemption by showing that:

1. The Person had no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and
2. The facility or community has stated formally in writing that the facility or community complies with the requirements for such exemption.

2.40.100 Prevention of Intimidation in Fair Housing Cases.

It is unlawful for any Person, whether or not acting under color of law, by force, or threat of force, to willfully injure, intimidate or interfere with, coerce or threaten, or attempt to injure, intimidate or interfere with, coerce or threaten:

- A. Any Person because of his or her or her race, color, religion, sex, Gender Identity, Sexual Orientation, Familial Status, Handicap, or national origin, and because such Person is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwellings, or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or
- B. Any Person because he or she is or has been, or in order to intimidate such Person, or any other Person, or any classes of Persons from:
 1. Participating, without discrimination on account of race, color, religion, sex, Gender Identity, Sexual Orientation, Familial Status, Handicap, or national origin in any of the activities, services, organizations or facilities described in Subsection A; or
 2. Affording another Person or class of Persons opportunity or protection so as to participate; or
- C. Any Person because he or she is or has been, or in order to discourage such citizen, or any other citizen, from lawfully aiding or encouraging other Persons to participate, without discrimination on account of race, color, religion, sex, Gender Identity, Sexual Orientation, Familial Status, Handicap, or national origin, in any of the activities, services, organizations or facilities described in Subsection A, or participating lawfully in speech or peaceful assembly opposing any denial of opportunity to so participate.

2.40.110 Procedure to Secure Discontinuance of Violations; Enforcement; Penalties.

Any person aggrieved by an alleged violation of this Chapter may file a written complaint with the City Clerk. The complaint shall be filed within 60 calendar days of the alleged act of discrimination. Said complaint shall be administratively handled by an Investigator and disposition shall be by a Hearing Officer, all as set forth in Section 9.80.060 of the Shawnee Municipal Code. If the Hearing Officer finds that a civil violation of this Chapter has occurred, the Hearing Officer may impose a civil penalty and

enforcement order as set forth in Section 9.80.060 of the Shawnee Municipal Code.

PARAGRAPH 2. The previously existing Chapter 2.40 of the Shawnee Municipal Code is hereby repealed.

PARAGRAPH 3. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

PARAGRAPH 4. SAVINGS CLAUSE. Neither the passage of this Ordinance, the repeal of the Ordinance or Code provisions set forth herein, or the future repeal or amendment of any Ordinance or Code section or part or portion thereof, shall in any manner affect the prosecution for violation of this Ordinance or any Ordinance or Code amended or repealed herein, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under any Ordinance or Code, nor be construed as affecting any of the provisions of such Ordinance or Code relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any Ordinance or Code, and all rights and obligations thereunder shall continue in full force and effect. Any Ordinance or Code sections amended or repealed, are hereby continued in force and effect after the passage, approval, and publication of this Ordinance for the purposes of such rights, fines, penalties, forfeitures, liabilities, and actions therefore.

PARAGRAPH 5. This Ordinance shall take effect and be in force from and after its passage and publication as required by law.

This portion is intentionally blank.

PASSED by the Governing Body this 26th day of August, 2019.

APPROVED AND SIGNED by the Mayor this 26th day of August, 2019.



CITY OF SHAWNEE, KANSAS

By: 
Michelle Distler, Mayor

ATTEST:

By: 
Stephanie Zaldivar, City Clerk

APPROVED AS TO FORM:

By: 
M. Ellis Rainey, II, City Attorney

**OFFICE OF THE CITY CLERK
PUBLICATION CERTIFICATE**

I hereby certify that the foregoing is the original Ordinance. 3289; that was passed on the 26 day of August, 2019; that the record of the final vote on its passage is found in Journal No. 78, Volume No. 16-2019, and Page No. 71; and that the Ordinance was published in The Legal Record, the official City newspaper on the 3 day of September, 2019.


Stephanie Zaldivar, City Clerk



The Legal Record

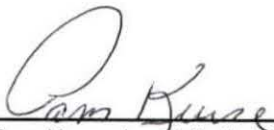
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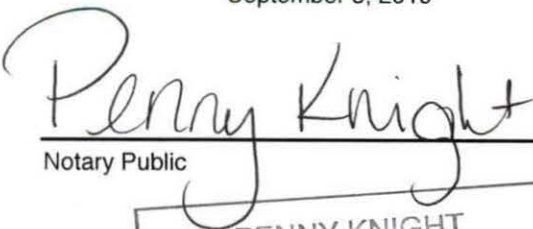
STATE OF KANSAS, JOHNSON COUNTY, SS;
Pam Kruse, of lawful age, being first duly sworn,
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trade, religious or fraternal publication, is published
at least weekly fifty (50) times a year, has been so
published continuously and uninterrupted in said
County and State for a period of more than one
year prior to the first publication of the notice
attached, and has been entered at the post office
as Periodicals Class mail matter. That a notice
was published in all editions of the regular and
entire issue for the following subject matter (also
identified by the following case number, if any) for
1 consecutive week(s), as follows:

ORDINANCE #3289 SUMMARY
9/3/19



Pam Kruse, Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
September 3, 2019



Notary Public

PENNY KNIGHT
Notary Public-State of Kansas
My Appt. Expires Dec. 31, 2021

ORDINANCE NO. 3289
First published in The Legal Record, Tuesday, September 3, 2019.
CITY OF SHAWNEE
Summary of Ordinance No. 3289

On the 26 day of August, 2019, the Governing Body of the City of Shawnee, Kansas passed Ordinance No. 3289, Amending Chapter 2.40 of the Shawnee Municipal Code regarding Fair Housing Practices, to add Discrimination Protection for Gender Identity and Sexual Orientation to the existing Discrimination Provisions of the Shawnee Municipal Code.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at www.cityofshawnee.org.

The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. 3289 is legally accurate and sufficient.

Dated: August 26, 2019
/s/ M. Ellis Rainey, II, City Attorney
9/3