

ORDINANCE NO. 0-80-25

AN ORDINANCE ADOPTING THE CONWAY, ARKANSAS
"FAIR HOUSING ORDINANCE"
AND FOR DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES

WHEREAS, the City of Conway, Arkansas believes that every person should have access and opportunity to obtain adequate housing of their choice, without regard to race, color, religion, national origin, or sex; and

WHEREAS, the City of Conway, Arkansas believes that in order to afford its citizens these equal rights it should adopt a "Fair Housing Ordinance" in order to enforce Title VIII of the Civil Rights Act of 1968; and

WHEREAS, the denial of these rights is detrimental to the health, safety, morals, and welfare of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section 1. Declaration of Policy

A. An ordinance providing regulations to govern the availability of fair housing to each and every person regardless of race, color, religion, national origin, or sex in compliance with Title VIII of the Civil Rights Act of 1968 is hereby adopted and declared to be the policy of the City of Conway. This ordinance shall commonly be referred to as the "FAIR HOUSING ORDINANCE" for the City of Conway, Arkansas and shall be placed in the City Clerk's Office for inspection by members of the general public of the City of Conway during normal business hours.

B. It is further declared that this policy is grounded upon a recognition of the right of every person to have access to adequate housing of their choice without regard to race, color, religion, national origin, or sex; and further, that the denial of such right through considerations based on race, color, religion, national origin, or sex is detrimental to the health, safety, morals, and welfare of the community and its inhabitants and constitutes an unjust denial or deprivation of such rights which is within the power and responsibility of government to prevent.

Section 2: Acts Prohibited by this Ordinance

A. It shall be unlawful:

(1) 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 or national origin.

(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 therewith, because of race, color, religion, sex, or national origin.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, 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, or national origin, or an intention to make any such preference, limitation, or discrimination.

(4) To represent to any person because of race, color, religion, sex, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin.

(6) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, or national origin.

B. Discrimination in the Financing of Housing: It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, construction, improving, repairing, or maintaining a dwelling on account of race, color, religion, sex, or national origin, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, to the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given on account of race, color, religion, sex or national origin.

C. Conspiracy to Violate this Ordinance Unlawful: It shall be unlawful practice for a person, or for two or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this Ordinance, or because he or she has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this Ordinance.

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this Ordinance.

(3) To obstruct or prevent a person from complying with the provisions of this ordinance or any order issued thereunder.

(4) To resist, prevent, impede, or interfere with the enforcing agent(s) in the lawful performance of duty under this ordinance.

Section 3: Acts not Prohibited by this Ordinance: The following acts are not covered by this ordinance. It is important to remember, however, that these acts are covered by the 1968 Civil Rights Act when discrimination based on race occurs in connection with such acts.

A. The sale or rental of single-family houses owned by a private individual owner of three or fewer such single-family houses if:

(1) A broker is not used.

(2) Discriminatory advertising is not used.

(3) No more than one house in which the owner was not the most recent resident sold during any two year period.

B. Rentals of rooms or units in owner-occupied dwellings for two to four families, if discriminatory advertising is not used.

C. Limiting the sale, rental, or occupancy of dwellings which a religious organization owns or operates for other than a commercial purpose to persons of the same religion, if membership in that religion is not restricted on account of race, color, national origin, or sex.

D. Limiting to its own members the rental or occupancy of lodgings which a private club owns or operates for other than commercial purposes.

Section 4: Provisions for Enforcement

A. The Mayor or his designated agent shall serve as Fair Housing Officer who shall have the responsibility for implementing this Ordinance.

B. The Mayor shall provide sufficient staff to perform these duties as required.

C. Any person claiming to be aggrieved by a violation of this Ordinance, may, within 60 days of the alleged violation, file a written complaint (notarized if possible) with the Fair Housing Officer. The complaint shall contain the name of the alleged violator(s), or set forth facts sufficient to identify such person(s) and include an outline of the material facts upon which the complaint is based and the date of the alleged violation. Proper forms will be provided by the Fair Housing Officer.

D. The Fair Housing Officer shall furnish a copy of the complaint to the person(s) against whom the complaint is made by certified mail-return receipt requested. Upon receipt of the complaint, the respondent may file an answer to the complaint within 30 days

of the receipt thereof. With leave from the Fair Housing Officer, the Complainant may amend their complaint anytime up until 10 days prior to the date set for hearing; and the Respondent may amend their answer anytime before a hearing set by the Fair Housing Officer. Within 30 days of the service of the complaint upon the respondent, the Fair Housing Officer shall conduct an inquiry to determine if there is sufficient data to substantiate the complaint. During the course of an inquiry being conducted as a result of a complaint filed hereunder, the Fair Housing Officer, may at any reasonable time request voluntary access to premises, records and documents relevant to the complaint and may request the right to examine, photograph, and copy evidence. If the Fair Housing Officer is denied access to such records or premises, he may provide the necessary information concerning such matters to the City Attorney who, in turn, may obtain subpoenas or search warrants relative to possible misdemeanor violations of this ordinance. All such discovery measures, however, shall be subject to the Fourth Amendment relating to unreasonable searches and seizures.

E. If the Fair Housing Officer determines that the person(s) charged has not engaged in an unlawful practice or if there is insufficient data he shall state his findings of fact and conclusions of law and shall issue an order dismissing the complaint. A copy of the order shall be delivered to the complainant, the person(s) charged, the City Attorney and such other public officials, officers, and persons as deemed proper. The complainant will be advised of the right to file an appeal with the Fair Housing Board, which Board will consist of seven (7) members who shall be appointed by the City Council with four (4) members of said Board representing each of the four City wards and three (3) members being appointed from the City at large. Said appeal shall be filed with the Mayor within 15 days. Upon receiving notice of the appeal, the Fair Housing Board shall hear and review the matter and any other information relative thereto and render its decision therein. Should any party not be satisfied with the decision of said Board they shall be advised of the right to file a complaint under any other federal, state, or local statute. HUD Form 903 may be obtained from the Fair Housing Officer for filing complaints with the U.S. Department of Housing and Urban Development (HUD).

F. If the Fair Housing Officer determines that there is substantial data to support the complaint, an effort to eliminate the violation shall be made by conference, conciliation, and persuasion. The Fair Housing Officer is authorized to work toward conciliating agreements whereunder the alleged violation is eliminated and the complaining person(s) made whole to the extent possible. If such an agreement is reached, it will be signed by the Fair Housing Officer, the complainant, and the person(s) charged. It will not be necessary for any conciliation agreement to contain a declaration or finding that a violation has in fact occurred.

If the Fair Housing Officer fails by conciliation to accomplish the elimination of the alleged unlawful discriminatory practice, the complaint and all records and findings relating thereto shall be turned over to the City Attorney for appropriate action to secure enforcement of this Ordinance. The City Attorney shall institute a misdemeanor proceeding in the Municipal Court unless such Attorney shall determine that such proceeding could not lawfully be sustained.

G. Affirmative action negotiated through conciliation and under this section may include, but not be limited to:

(1) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the person(s) charged.

(2) Reporting as to the manner of compliance.

(3) Posting notices in conspicuous places in the person(s) charged place of business in a form prescribed by the Fair Housing Officer.

(4) Sale, exchange, lease, rental, assignment, or sub-lease of real property to an individual.

H. The provisions for conciliation and affirmative action shall not preclude or in any way impair the enforcement provisions of this ordinance.

I. Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$250.00 (Two Hundred and Fifty Dollars) for each violation thereof, and each day such violation shall be permitted to exist shall constitute a separate offense.

Section 5: Nothing in this ordinance shall be construed as an administrative prerequisite to a citizen pursuing his or her rights under any other Federal, State or local statute, case decision, or administrative ruling. Complaints may be filed at any time with the Department of Housing and Urban Development within 180 days of the alleged discriminatory act.

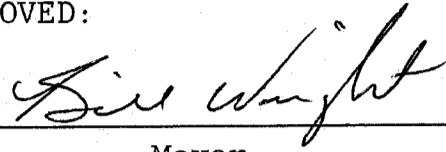
Section 6: All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 7: Should any section, subsection, sentence, provision, clause or phrase be held to be invalid for any reason, such holding shall not render invalid any other section, subsection, sentence, provision, clause, or phrase of this ordinance, and same for this purpose are deemed to be severable.

Section 8: This ordinance being necessary for the preservation of the public peace, health and safety, an emergency is therefore declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval and publication.

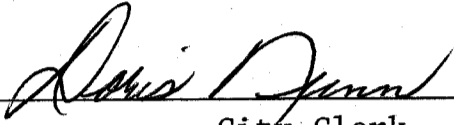
PASSED this 23rd day of September, 1980

APPROVED:



Mayor

ATTEST:



City Clerk