

ORDINANCE NO. B-380

AN ORDINANCE PROVIDING FOR FAIR HOUSING  
IN THE CITY OF ARKADELPHIA, ARKANSAS

BE IT ORDAINED by the Board of Directors of the City  
of Arkadelphia, Arkansas:

Section 1: Declaration of Policy

A. It is hereby declared to be the policy of the City of Arkadelphia, Arkansas to bring about, through fair, orderly and lawful procedures, the opportunity for each person to obtain housing without regard to race, color, religion, national origin, or sex; and this ordinance shall commonly be referred to as the "FAIR HOUSING ORDINANCE" for the City of Arkadelphia, Arkansas.

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: Definitions

A. Discrimination - Means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, or sex, or in the aiding, abetting, inciting, coercing, or compelling thereof.

B. Fair Housing Officer - Means the individual designated that title and position by the Mayor to carry out any or all duties, obligations, rights, or powers under the provisions of this ordinance.

C. Conciliation Agreement - Means a written agreement or statement setting forth the terms of the agreement mutually signed and subscribed to by both complainant(s) and respondent(s) and witnessed by a duly authorized enforcing agent.

D. Conciliation Failure - Means any failure to obtain a conciliation agreement between the parties to the discrimination charge or a breach thereof.

E. Dwelling - Means any building, structure, or portion thereof which is occupied as a residence by one or more families, any vacant land which is offered for sale or lease for the construction or location thereof of any such building, structure, or portion thereof.

F. To Rent - Includes to lease, to sub-lease, to let, and otherwise to grant for consideration the right to occupy premises not owned by the occupant.

G. Lending Institution - Means any bank, insurance company, savings and loan association, other person in the business of lending money or guaranteeing loans, any person

in the business of obtaining, arranging, or negotiating loans or guarantees as agent or broker, and any person in the business of buying or selling loans or instruments for the payment of money, any of which are secured by title to mortgage, assignment of beneficial interest or security interest in real property.

H. Owner - Means any person who holds legal or equitable title to, or owns any beneficial interest in any real property, or who holds legal or equitable title to shares of, or holds any beneficial interest in any real estate cooperative which owns any real property.

I. Real Estate Operator - Means any individual or combination of individual labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint stock companies, trust, unincorporated organizations, trustees in bankruptcy, receivers or other legal or commercial entity, the city or county or any of its agencies or any owner of real property that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income in whole or in part, from the sale, purchase, exchange, rental or lease of rental estate, or an individual employed by or acting on behalf of any of these.

J. Real Estate Broker or Real Estate Salesman - Means an individual whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or hold themselves out as engaging in such activities; or who negotiates or attempts negotiation on behalf of others a loan secured by mortgage or other encumbrances upon a transfer of real estate, or who is engaged in the business of charging an advance or contracting for collection of a fee in connection with a contract whereby he/she undertakes to promote the sale, purchase, exchange, rental or lease of real estate through its listing in a publication issued primarily for such purpose, or an individual employed by or acting on behalf of any of these.

### Section 3: 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 therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, 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 for the purposes 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.

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 change, 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 4: Acts not Prohibited by this Ordinance - The following acts are not covered by this ordinance. It is important to remember, however, that these acts may be covered by the 1866 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 5: Provisions for Enforcement

A. The Mayor shall designate a competent person as Fair Housing Officer who shall have the responsibility for implementing this ordinance.

B. 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.

C. 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. 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 under this ordinance, 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.

D. 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 conciliation 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 shall fail 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.

E. If the Fair Housing Officer determines that the person(s) charged has not engaged in an unlawful practice, 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 Mayor within 15 days or to file a complaint under other Federal, State, or local statute. HUD Form 903 can be obtained from the Fair Housing Officer for filing complaints with the U.S. Department of Housing and Urban Development (HUD).

F. 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.

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

H. 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 \$500.00 (Five Hundred Dollars) for each violation thereof.

Section 6: 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 (HUD) within 180 days of the alleged discriminatory act.

Section 7: All laws and clauses of laws in conflict herewith <sup>are</sup> repealed to the extent of such conflict.

Section 8: Should any section, subsection, sentence, provisions, 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 9: 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 AND APPROVED this 4<sup>th</sup> day of September, 1980.

Sam L. Watson  
Mayor

ATTEST:  
Judy Beth Hutcherson  
City Clerk