

ASHLEY COUNTY CODE OF ORDINANCES
Chapter 13 - Urban / Rural Development

Chapter 13: URBAN /RURAL DEVELOPMENT

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Article I. BUILDING

Section

Reserved.

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Article II. PLANNING / ZONING

A.C.A § 14-17-209. Zoning ordinance – Board of zoning adjustment.

- (a) The county planning board shall have authority to prepare, or to cause to be prepared, a zoning ordinance for all or part of the unincorporated area of the county, which ordinance shall include both a map and a text. The zoning ordinance may evaluate the location, height, bulk, number of stories, and the size of the building; open space; lot coverage; density and distribution of population; and the uses of land, buildings and structures. It may require off-street parking and loading. It may provide for districts of compatible uses, for large scale unified development, for the control and elimination of uses not in conformance with provisions of the ordinance, and for such other matters as are necessary to the health, safety, and general welfare of the county. The zoning ordinance shall designate districts or zones of such shape, size, or characteristic as deemed advisable for all, or part, of the unincorporated area of the county. The regulations imposed within each district or zone shall be uniform throughout the district or zone.

. . .

A.C.A. § 14-17-210. Jurisdiction over unincorporated areas.

The county planning board shall have the exclusive zoning and planning jurisdiction over all unincorporated areas lying within a county and along a navigable stream notwithstanding the fact that such areas may be within five (5) miles of the corporate limits of a city having a planning commission if the unincorporated areas are lands upon which a new community has been or is being developed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

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Reserved

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Article III. ECONOMIC DEVELOPMENT

A.C.A. §§ 14-173-101-105. City and County Economic Development Grant Authorization Act.

A.C.A. §§ 14-169-901-903. Subchapter intention.

It is the intention of this subchapter to permit municipal and county government in the State of Arkansas to participate fully in the Community Development Act of 1974, specifically, but not limited to, community development activities eligible for assistance in section 105 of it, and to have their governing bodies exercise any and all powers conferred on housing authorities and urban renewal agencies, including, but not limited to:

- (1) Eminent domain;
- (2) Redevelopment activities;
- (3) Housing;
- (4) Public housing;
- (5) Urban renewal; and
- (6) Community development in its broadest sense.

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Reserved.

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Article IV. HOUSING

A.C.A. §§ 14-54-1601-1606. The Affordable Housing Accessibility Act.

A.C.A. §§ 16-123-201-210. Arkansas Fair Housing Act.

Section

1360.00 Fair housing ordinance.

§ 1360.00 FAIR HOUSING ORDINANCE.

- 1) **POLICY.** It is the policy of Ashley County to provide, within constitutional limitations, for fair housing throughout its jurisdiction.
- 2) **DEFINITIONS.**
 - a. ***Dwelling*** means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one 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.
 - b. ***Family*** includes a single individual.
 - c. ***Person*** includes one 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.
 - d. ***To Rent*** includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant.
 - e. ***Discriminatory Housing Practice*** means an act that is unlawful under Sections 4, 5, or 6.

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- 3) UNLAWFUL PRACTICE. Subject to the provisions Sub-section (b) and Section 7, the prohibitions against discrimination in the sale or rental of housing set forth in Section 4 shall apply to:
- a. All dwellings except as exempted by Sub-section (b).
 - b. Nothing in Section 4 shall apply to:
 - i. Any single family house sold or rented by an owner: provided, that such private individual owner does not own more than three such single-family houses at any one time; Provided further, that in the case of the sale or 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 such sale within any twenty-four 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 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 such single-family houses at any one time: provided further, that the sale or rental of any such single family house shall be exempted from the application of this title only if such house is sold or rented (A) 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 (B) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of Section 4(c) of this Ordinance, but nothing in this provision shall prohibit the use of attorney's, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or
 - ii. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently or each other, if the owner actually maintains and occupies one of such living quarters as his residence.
 - c. For the purposes of Sub-section (b), a person shall be deemed to be in the business of selling or renting dwellings if

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- i. He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - ii. He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or
 - iii. He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.
- 4) **DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.** As made applicable by Section 3 and except as exempted by Sections 3(b) and 7, it is unlawful:
 - a. To refuse to sell or rent after 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, 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, or national origin.
 - c. 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, 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, 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 the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.
- 5) **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

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real estate loans, to deny a loan or other financial assistance to a person applying therefore 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, because of the race, color, religion or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of 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: provided that nothing contained in this section shall impair the scope or effectiveness of the exception contained in Section 3(b).

- 6) **DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.** It shall be unlawful 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, or national origin.
- 7) **EXEMPTION.** Nothing in this Ordinance 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 Ordinance prohibit a private club not in fact open to the public, which as an incident to its primary purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- 8) **ADMINISTRATION.**
 - a. The authority and responsibility for administering this Act shall be in the Chief Executive Officer of Ashley County.
 - b. The Chief Executive Officer may delegate any of these functions, duties, and powers to employees of the County or to boards of such employees, including functions, duties, and powers with respect to investigation, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Ordinance. The Chief Executive Officer shall by

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rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the County, to boards of officers or to himself, as shall be appropriate and in accordance with law.

- c. All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Ordinance and shall cooperate with the Chief Executive Officer to further such purposes.

9) EDUCATION AND CONCILIATION. Immediately after the enactment of this Ordinance, the Chief Executive Officer shall commence such educational and conciliatory activities as will further the purposes of this Ordinance. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this Ordinance and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement.

10) ENFORCEMENT.

- a. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the Chief Executive Officer. Complaints shall be in writing and shall contain such information and be in such form, as the Chief Executive Officer requires. Upon receipt of such a complaint, the Chief Executive Officer shall furnish a copy of the same to the person or persons who allegedly committed or is/was about to commit the alleged discriminatory housing practice. Within thirty days after receiving a complaint, or within thirty days after the expiration of any period of reference under subsection (c), the Chief Executive Officer shall investigate the complaint and give notice in writing to the person aggrieved whether he intends to resolve it. If the Chief Executive Officer decides to resolve the complaint, he shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this Ordinance without the written consent of the persons concerned. Any employee of the Chief Executive Officer who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

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- b. A complaint under Sub-section (a) shall be filed within one hundred and eighty days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him with the leave of the Chief Executive Officer, which shall be granted whenever it would be reasonable and fair to do so, and may amend his answer at any time. Both complaints and answers shall be verified.
- c. If within thirty days after a complaint is filed with the Chief Executive Officer, he/she has been unable to obtain voluntary compliance with this Ordinance, the person aggrieved may, within thirty days thereafter, file a complaint with the Secretary of the Department of Housing and Urban Development. The Chief Executive Officer will assist in filing.
- d. If the Chief Executive Officer has been unable to obtain voluntary compliance within thirty days of the complaint, the person aggrieved may, within thirty days hereafter commence a civil action in any appropriate court, against the respondent named in the complaint, to enforce the rights granted or protected by this Ordinance, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.
- e. In proceedings brought pursuant to this section, the burden of proof shall be on the complainant.
- f. Whenever an action filed by an individual shall come to trial, the Chief Executive Officer shall immediately terminate all efforts to obtain voluntary compliance.

11) INVESTIGATIONS: SUBPOENAS; GIVING OF EVIDENCE.

- a. In conducting an investigation, the Chief Executive Officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation; provided, however, that the Chief Executive Officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The Chief Executive Officer may issue subpoenas to compel his access to or the production of such

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materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the interrogatories were issued or served in aid of civil action in the United States District Court for the District in which the investigation was taking place. The Chief Executive Officer may administer oaths.

- b. Upon written application to the Chief Executive Officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the Chief Executive Officer to the same extent and subject to the same limitations as subpoenas issued by the Chief Executive Officer himself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- c. Witnesses summoned by subpoena of the Chief Executive Officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him.
- d. Within five days after service of a subpoena upon any person, such person may petition the Chief Executive Officer to revoke or modify the subpoena. The Chief Executive Officer shall grant the petition if he finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.
- e. In case of contumacy or refusal to obey a subpoena, the Chief Executive Officer or person at whose request it was issued may petition for enforcement in the Municipal or State court for the district in which the person to whom the subpoena was addressed resides, was served, etc.
- f. Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpoena or lawful order of the Chief Executive Officer shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Chief Executive Officer, shall make or cause to be made any false entry or statement of fact in any report, account, record, or other document submitted to the Chief Executive Officer pursuant to his subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such

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reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

- g. The Grantee's Attorney shall conduct all litigation in which the Chief Executive Officer participates as a party or as amicus pursuant to this Ordinance.

12) ENFORCEMENT BY PRIVATE PERSONS.

- a. The rights granted by Sections 3, 4, 5, and 6 may be enforced by civil actions in State or local courts of general jurisdiction. A civil action shall be commenced within one hundred and eighty days after the alleged discriminatory housing practice occurred: Provided however, that the court shall continue such civil case brought pursuant to this Section or Section 10 (d) from time to time before bringing it to trial or renting dwellings; or
- b. Any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from:
 - i. Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in Sub-section 15 (a); or
 - ii. Affording another person or class of persons opportunity or protection to participate; or
 - iii. Any citizen because he is/has been, or in order to discourage such or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations or facilities described in Sub-section 15 (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

13) EMERGENCY CLAUSE. This Ordinance is necessary to protect and preserve the administration of County Government and to permit implementation of and conformity to

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rules and regulations by which it is governed, and therefore, an emergency is declared to exist and it shall be in force and shall take effect immediately upon its adoption.

([Ord. 2007-004](#), passed 2-6-07; Am. [Ord. 2010-007](#), passed 7-12-10)

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**Article V. WATERCOURSE, DRAINAGE, IRRIGATION, FLOOD
CONTROL SERVICES**

A.C.A. §§ 14-121-101-1110. Drainage Improvement Districts Generally.

A.C.A. §§ 14-117-101-427. Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949.

A.C.A. § 14-16-112. Flood control improvements.

- (a) (1) The counties of this state are authorized and empowered to enter upon, take, and hold any lands or interest, easement or servitude therein, whether by purchase, grant, donation devise, or otherwise, that may be necessary and proper for the location, construction, operation, repair, or maintenance of any floodway, reservoir, spillway, levee or diversion, or other flood control improvements.
- (2) (A) In order to acquire such rights, easements, and servitudes, the counties are given the authority and power to condemn land or interest therein for these purposes.

(B) In the event it becomes necessary for counties to exercise the right of eminent domain, condemnation proceedings shall be instituted and conducted in the same manner as provided in §§ 18-15-304—18-15-307.
- (b) Nothing in this section shall ever be so construed or applied as to relieve the federal government of any liability or responsibility which it has assumed by the passage of the Flood Control Act of May 15, 1928, or the Flood Control Act of June 15, 1936, or any other existing law, or any law that may hereafter be passed by the Congress of the United States.

Section

Reserved.