

Ordinance #2022-15

Ordinance Book, Page 77

ORDINANCE AMENDING CHAPTER 2 ENTITLED “ADMINISTRATION”
TO CREATE SECTION 2-10 “THE CITY OF WINSTON-SALEM HOUSING JUSTICE ACT”

Section 1. Section 2-10 is hereby created as the City of Winston-Salem Housing Justice Act to read as follows:

“Section. 2-10. City of Winston-Salem Housing Justice Act (“Housing Justice Act”)

(a) Purpose.

Housing is recognized as a basic need and the platform for economic mobility. A safe and stable home serves as the foundation for healthy families and is the nexus to thriving communities. The City of Winston-Salem Housing Justice Act is an anti-poverty initiative that is designed to reduce homelessness and provide equitable outcomes for city residents consistent with G.S. 160A-456 by, in part, eliminating barriers to housing such as certain criminal convictions, sources of income and the lack of affordability.

Consistent with the foregoing, the city hereby establishes the City of Winston-Salem Housing Justice Act (“Housing Justice Act”) which, in part, prohibits discrimination based on criminal convictions and sources of income. The Housing Justice Act applies to residential and housing development projects constructed, developed, rehabilitated or renovated, in whole or part, with city funds, which funds may take the form of a direct, deferred or forgivable loan or grant consistent with the source of funding, the Constitution of the State of North Carolina and other applicable laws.

(b) Definitions.

- (1) Affordable housing-housing that is designed and constructed or renovated to serve eligible households with an income that is no more than 80% of the area median income.
- (2) City funds include general fund dollars, bond funds, as well as funds from state and federal sources that do not have use restrictions contrary hereto.
- (3) Habitual violator is a person: (i) receiving or who has received city funds or city property and (ii) who has been determined by the city to have violated this Housing Justice Act two or more times.
- (4) Housing means any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, including any accessory buildings and appurtenances belonging thereto or usually enjoyed therewith.
- (5) Market rate housing-housing that is designed, developed and constructed or renovated to

serve eligible households with an income that is 121% or more of the area median income.

(6) Mixed income housing-housing that is designed, developed and constructed or renovated to provide housing to households with an income that meets each of the following housing categories: (i) affordable housing; at least 65% of the units must serve households that fall into this category; (ii) workforce housing and (iii) market rate housing.

(7) Person includes one or more individuals, partnerships, associations, corporations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organization(s), trustees, trustees in bankruptcy, receivers or any other legal or commercial entity. This term also includes a property owner(s), landlord(s), developer(s) and agent(s) thereof.

(8) Sources of income shall include, but not be limited to, financial assistance from any rental assistance program, Supplemental Security Income, Social Security, pension and other retirement benefits, alimony, child support, federal Housing Choice Vouchers, or other housing subsidy program whether paid directly to the program participant, landlord or other representative.

(9) Workforce housing-housing that is designed and constructed or renovated to serve eligible households with an income that is between 81-120% of the area median income.

(c) Prohibition against discrimination (Criminal Record).

(1) No person who has received city funds for the construction, development, rehabilitation, or renovation of a residential or housing project or who has acquired, by purchase or lease, city owned property for the provision of affordable housing shall deny an applicant, tenant or occupant housing which includes the sale, rental, re-occupancy or financing of housing, based solely upon the applicant's, tenant's or occupant's criminal record, unless the conviction(s) is either a misdemeanor or felony assault, unless it occurred at or below the age of 18 and is more than 5 years old, communicating threats or illegal use of weapons "(hereinafter exclusions") provided the exclusions do not result in a violation of the local, state or federal Fair Housing Act or other related laws, rules and regulations, which may be amended from time to time. This prohibition or restrictions shall last for a period of at least ten (10) years from the purchase or lease of city owned property or for the length of a deed of trust required with the provision of city funds, whichever lasts the longest. If the person who received city funds, purchased or leased city property believes that it is necessary to deny housing to an applicant, tenant or occupant based upon a conviction history of other offenses in order to protect his/her own property, safety and welfare or that of others and the city concurs with that opinion, then the city will not consider such denial a violation of this prohibition.

(2) An error in a criminal background check might occur because, for example, it contains information that pertains to another person or is outdated. If an applicant, tenant or occupant is able to demonstrate an error in the criminal background report, then the recipient of city funds, the purchaser or lessee of city property must conduct the eligibility determination based upon the correct conviction history information. If the recipient of city funds, purchaser or lessee of city property finds an issue or concern with the correct information and the same still presents a safety concern or unreasonable risk that justifies an adverse action, then said person must notify the applicant, tenant or occupant in writing of said decision. The city shall be notified in writing as well.

(d) Prohibition against discrimination (Sources of Income).

No person, who has received city funds for the construction, development, rehabilitation, or renovation of a residential or housing development project, or who has purchased or leased city property shall deny an applicant, tenant or occupant housing, which includes the sale, rental, re-occupancy and financing of such housing, based upon the applicant's, tenant's or occupant's sources of income.

(e) City Funds; Thirty-three (33%) Percent Affordability Component of the Housing Justice Act; G.S. 160A-456; G.S. 160D-1316.

Unless otherwise provided by state law, a person who has received city funds for the construction, development, rehabilitation or renovation of an affordable housing project shall set aside, for a period of at least ~~thirty (30)~~ fifteen years for single family housing and at least 30 years for multifamily housing, at least thirty-three (33%) percent of the total number of units for affordable housing, as defined herein, in the following manner:

- (i) ten (10%) percent of the set aside units shall be made available for eligible households with incomes of no more than thirty (30%) percent of the area median income;
- (ii) twenty (20%) percent of the set aside units shall be made available for eligible households with incomes between 31-50% of the area median income; and
- (iii) seventy (70%) percent of the set aside units shall be made available for eligible households with incomes between 51-80% of the area median income.

The remaining sixty-seven (67%) percent of the units may be set aside for mixed income housing or a different combination of workforce housing and market rate housing, all for a period of at least ~~thirty (30)~~ fifteen years for single family housing and at least 30 years for multifamily housing. The aforementioned requirements shall be set forth in the form of a declaration of restrictive covenants and conditions or similar agreement. If for some reason, these percentages cannot be supported by the developer's proposed financing plan, the developer may suggest, for the city's consideration, other combinations, that still support an affordability component as a part of the overall project. Unless otherwise prohibited by law, the city council, in its sole and absolute discretion, may relax the aforementioned requirements if the proposed financing plan

will not support the percentages set forth above. If a person receives city funds and purchases or leases city owned property, the higher affordability standards set forth in the Affordable Housing Program ordinance shall apply.

All housing/housing units must be constructed or rehabilitated in accordance with all applicable state, local and federal codes and in accordance with industry standards with a certificate of occupancy to be obtained by an agreed upon deadline. All required licenses, permits and inspections shall be obtained and adhered to by the person receiving city funds. The person receiving city funds shall be solely responsible for the costs and completion of the construction or rehabilitation of the housing/housing unit(s). All required taxes shall be paid by the person receiving city funds in a timely manner.

Each housing/housing unit shall be subject to an annual inspection and affordability review, which may occur more frequently if there are code or program violations. Any violations noted during the inspection or affordability review shall be corrected in accordance with the applicable codes, rules and regulations and within the timeframes set forth therein using whichever code, rule, regulation or provision that provides for the shortest compliance or right to cure period. Failure to correct the violation(s) or cure the breach within allotted timeframe may trigger the reversion provision contained in the recorded restrictions.

(f) Additional Enforcement Measures .

Any tenant, applicant or occupant of housing who believes that he/she has been denied housing or that the person receiving city funds has not complied with the provisions of the Housing Justice Act may file a complaint with the city's human relations department or any other department designated by the city manager or his/her designee. The complaint will be investigated by said department. Depending upon the outcome of said complaint, the violator will be subject to the remedies set forth herein.

(g) Additional Remedies.

Any person who has violated the provisions of the Housing Justice Act and has not cured said violation after notice and reasonable cure period, will be ineligible to receive city funds in the future for a period of up to five (5) years as determined by the city manager or his/her designee.

(h) Severability.

The provisions of the Housing Justice Act are severable, and, if any part of the Housing Justice Act shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts of the Housing Justice Act.

Section 2. This ordinance shall become effective upon adoption.

