

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

BE IT ORDAINED, by the Mayor and Winston-Salem City Council as follows:

Section 1. Section 2-8. City of Winston-Salem Housing Justice Act. is hereby created to read as follows:

“Section. 2-8. 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 proposed 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 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.

In addition to the foregoing, the Housing Justice Act establishes: (1) a housing affordability component for housing funded, in whole or in part, with city funds, and (2) the framework for disposing of, by sale or lease, city owned property for the provision of affordable housing for low-and-moderate income persons. The city will rely upon various statutes including, but not limited to, G.S. 157 et. seq., (the City acting as a Housing Authority), G.S. 160A-269 (upset bid procedure), G.S. 160A-278 (leases for affordable housing), G.S. 160A-279 (sale to not for profit carrying out a public purpose), G.S. 160A-456 et. seq. (Community Development), G.S. 160A-457.2 (Urban Homesteading), G.S. 160D-1316 and other laws that subsequently become available to accomplish this public purpose.

(b) Definitions.

- (1) 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. City funds also include the provision of city-owned land for affordable housing purposes.*

- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

(c) **Prohibition against discrimination (Criminal Record).**

- (1) No person receiving city funds for the construction, development, rehabilitation, or renovation of a residential or housing project 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 receipt of city funds, purchase or lease of city property. 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.

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

No person receiving city funds for the construction, development, rehabilitation, or renovation of a residential or housing development project, purchaser or lessee of 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; Twenty (20%) Percent Affordability Component of the Housing Justice Act; G.S. 160A-456; G.S. 160D-1316 .

Unless otherwise by the provision in state law used as the authority for the provision such as G.S. 157-1 et. seq., a person receiving city funds for the construction, development, rehabilitation or renovation of an affordable housing project shall set aside for a period of at least fifteen (15) years from the receipt of city funds: (a) 5% of the total units to be leased to households who incomes are 50-80% of area median income, and (b) at least 15% of total units to be leased to households whose incomes are 80-120% of area median income, collectively referred to hereinafter as Affordable (Workforce) Housing. The aforementioned requirement will 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 proposed financing plan, the person may suggest, for the city's consideration, other combinations, that still support Affordable (Workforce) Housing 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.

(f) City Property; Sale or Lease of City Owned Property as an Affordable Housing Component of The Housing Justice Act.

(1) Objectives. The purpose of this subsection is to create and preserve affordable rental and owner-occupied housing with an overall goal of affirmatively furthering affordable housing and stabilizing older neighborhoods where many of the city owned lots exists. The specific objectives include the following:

- (i) To increase the supply of affordable housing.
- (ii) To encourage the development of affordable housing near existing transit services,
and
- (iii) To encourage transition from rental housing to home ownership.

(2) City Owned Residential Properties as a component of the Housing Justice Act. Unless a waiver or exemption is granted, all existing city owned residential properties that can be built upon as single lots or combined lots will be included in this component of the Housing Justice Act. While the list is subject to change, the Housing Justice Act includes the current list of city-owned residential properties in residential districts. City staff will

utilize all available city resources, including the city's website, to disseminate information to persons interested in purchasing city owned lots. City staff will direct persons interested in purchasing lots to the City's Real Estate Administrator. The existing residential properties, acquired in conjunction with or because of city transportation or utility projects, are not included in the program. The aforementioned provisions prohibiting the denial of housing based upon a criminal record with certain exceptions and prohibiting source of income discrimination would apply to the sale or lease of city owned property. Unless otherwise provided, the city's Affordable (Workforce) Housing requirement would apply, where appropriate. However, the period of affordability shall be determined based upon the language in subsection (f) below.

- (3) *Waiver or Exemption Process.* The existing list of city-owned residential properties shall be included in this component of the Housing Justice Act, unless the council member of the ward where property is located requests an exemption or waiver of certain property or properties from the Housing Justice Act and the Community Development/Housing/General Government Committee concurs with the requested waiver or exemption. As residential properties are acquired in the future, city staff will examine each acquisition for potential inclusion in this component of the Housing Justice Act, where appropriate. If said property is added by city staff or the council member of the ward to the list for inclusion in this component of the Housing Justice Act, then same waiver or exemption process applies to any residential properties acquired by the city in the future. Staff will continue to market for sale any properties exempted from this component of the Housing Justice Act.
- (4) *Affordable rental and owner-occupied housing: Department and HUD Affordability Standards.* Unless otherwise provided, the Community Development Department will utilize the Department's and HUD's affordability guidelines, which may be amended from time to time, to determine affordability and define low-to-moderate income persons for purposes of this program. Unless otherwise provided, the affordability period shall be determined in accordance with the provisions and standards set forth herein.
- (5) *Deed Restrictions.* With each sale or lease of city owned property, the affordability, maintenance and other restrictions will be recorded in the Forsyth County Register of Deeds Office. Said restrictions are necessary to ensure the use of the property for the provision of affordable housing and the maintenance thereof in accordance with all applicable state and local building, housing, environmental, nuisance and sanitation codes. The following is a general list of the type of restrictive covenants and conditions that will apply to each transaction.

(i) *Affordability and affordability period.*

Unless otherwise provided, the property must be developed for home ownership or rental to low-to-moderate income persons, as defined herein, for the following timeframes:

a. *Property sold to individual for homeownership.*

The affordability and other restrictions will run with the land for 30 years.

b. Property sold to develop/construct rental housing.

The affordability and other restrictions will run with the land for 50 years.

c. Property leased to develop/construct rental housing.

The affordability and other restrictions will run with the land for 99 years.

(ii) Breach of the restrictive covenants and conditions.

A breach of any of the restrictive covenants and conditions or any provision of the Housing Justice Act shall result in the property reverting to the city in accordance with the process set forth in the conveyance instrument and/or restrictive covenants and conditions. The buyer shall have a 60-day right to cure the breach or violation before the city exercises its right to reclaim the property. If it is more advantageous for the city to require a payment for termination of the restrictions in order to provide for affordable housing in an alternate location, the City has the option of allowing the buyer to pay an amount determined by the city necessary to terminate the restrictions.

(iii) Subsequent sale or lease of property

All subsequent sales and leases shall be subject to the recorded deed and lease restrictions.

(g) Construction and rehabilitation requirements when using city funds or city property.

City staff shall review city funding program(s) and the application process with persons proposing to construct or rehabilitate a housing project or to purchase or lease city property. If city funds or city property is used, the house/dwelling unit(s) must be constructed or rehabilitated in accordance with applicable state, local and federal codes and in accordance with industry standards and a certificate of occupancy shall be obtained, within one year of receipt of city funding, or the purchase or lease of the city owned property, unless there is another agreed upon construction or rehabilitation schedule. All required licenses, permits and inspections shall be obtained and adhered to by the developer, purchaser or lessee. The developer, purchaser or lessee shall be solely responsible for the costs and completion of the construction or rehabilitation of the house/dwelling unit(s).

All required taxes shall be paid by the developer, purchaser or lessee in a timely manner. At this time, the city has the programs listed below that may be combined with the sale or lease of city owned property to provide financial assistance to eligible purchasers or lessees in the provision of affordable housing, rental or homeownership, to low-and-moderate income persons.

(h) Financial Assistance from the City.

Where appropriate, the following programs may be available to provide financial assistance to eligible applicants:

- (i) TURN- Transforming Urban Residential Neighborhoods,
- (ii) HOME Investment Partnership (HOME),
- (iii) Housing Finance Funds (HFF), and
- (iv) Bond Funds.

(i) Annual Inspections and Affordability Review.

Each property for which city funds were provided, and each purchase or lease of city owned property under this component of the Housing Justice Act shall be subject to an annual inspection and affordability review, which may occur more frequently if there are code or program violations. This is necessary to make sure the property is: (i) maintained in accordance with all applicable codes and (ii) owned or leased in accordance with the deed restrictions including the affordability requirements. 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.

(j) Periodic review of program.

The Housing Justice Act may undergo periodic review for programmatic enhancements.

(k) Applicable statutory provisions.

- (i) G.S. 160A-279 Sale to a not-for profit entity carrying out a public purpose.
- (ii) G.S. 157-4-1. et. seq. Sale where the City Council is acting as a Housing Authority.
- (iii) G.S. 160A-457.2 Urban homesteading programs.
- (iv) G.S. 160A-269 Upset bid procedure with restrictions.
- (v) G.S. 160A-456-Community Development.
- (vi) G.S. 160A-278 Leases for affordable housing.
- (vii) G.S. 160D-1316.Low-and-moderate income housing programs.

(l) Additional Enforcement Measures.

Any tenant, applicant or occupant of housing who believes that he/she has been denied housing in violation of the Housing Justice Act 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.

(m) Additional Remedies.

Any person found to have violated the Housing Justice Act 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. The city has the option to clawback from a habitual offender all or a portion of the city funds afforded a residential or housing project depending upon the severity of the violations and/or time remaining on the declaration of restrictive covenants and conditions.

(n) 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. However, the authority to use G.S. 160A-1316 does not become effective until January 1, 2021. Also, with the passage of Chapter 160D, which becomes effective January 1, 2021, many of the statutory references herein will change. The code codification company is here authorized, with input from city staff, to make the appropriate reference changes.