ORDINANCE NO. 79-5

AN ORDINANCE PROHIBITING DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, ANCESTRY, NATIONAL ORIGIN, SEX, OR PLACE OF BIRTH IN REGARD TO HOUSING ACCOMMODATIONS WITHIN THE CITY OF ATKINS, ARKANSAS, DECLARING THE POLICY OF THE CITY OF ATKINS, ARKANSAS , TO BE THAT OF INSURING EQUAL OPPORTUNITY TO ALL PERSONS TO LIVE IN DECENT HOUSING FACILITIES: DEFINING THE TERMS USED: PROHIBITING CERTAIN PRACTICES WHICH WOULD CONSTITUTE DISCRIMINATION ON THE BASIS OF RACE, SEX, OR PLACE OF BIRTH IN CONNECTION WITH THE SALE, PURCHASE, LEASING OR FINANCING OF HOUSING FACILITIES: CONTAINING EXEMPTIONS AND EXCEPTIONS TO THE APPLICATION OF THIS ORDINANCE FOR CERTAIN GROUPS AND PERSONS; PROVIDING FOR PROCEDURE, OTHER REMEDIES, AND PENALTIES: REPEALING CONFLICTING ORDINANCES: PROVIDING FOR SEVERABILITY OF INVALID SECTIONS OF SUB-SECTIONS: AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATKINS, ARKANSAS , AS FOLLOWS:

Section 1. DECLARATION OF POLICY

It is hereby declared to be the policy of the in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any persons.

Section 2. DEFINITIONS

When used herein:

(1) "Real property" includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.

(2) "Discrimination" or "discriminatory housing practice" means any difference in treatment based upon race, color, religion, sex, or national origin; or any act that is unlawful under this ordinance.

(3) "Person" includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.

(4) "Owner" includes a lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.

(5) "Financial Institution" includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses.

(6) "Real Estate Broker" or "Real Estate Salesman" includes any individual, qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents, or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself out as engaged in such activities;

or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(7) "Housing Accommodation" or "Dwelling" means any building, mobile home or trailer, 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, mobile home or trailer, structure, or portion thereof or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.

(8) "Open Market" means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

Section 3. UNLAWFUL PRACTICES

In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale, purchase, rental or lease of any housing accommodation, it shall be unlawful within the City of Atkins for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

(1) Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry, national origin, sex or place of birth; or

(2) To discriminate against a person in the terms, conditions, or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities of services in connection therewith; or

(3) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, ancestry, national origin, sex, or place of birth; or

(4) To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his or her race, color, religion, ancestry, national origin, sex or place of birth; or

(5) To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his or her race, color, religion, or national origin, sex or place of birth; or

(6) To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination;

(7) To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or

(8) To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipating presence of persons of any particular race, color, religion, sex or national origin or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:

(a) The lowering of property values in the area,

(b) An increase in criminal or antisocial behavior in the area, or

(c) A decline in the quality of the schools serving the area.

(9) To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the City of Atkins for the purpose of including or attempting to induce any such listing or any of the above transactions; or

(10) To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

(11) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this ordinance; or

(12) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this ordinance; or to obstruct or prevent any person from complying with the provisions of this ordinance; or any other issued thereunder; or

(13) By canvassing, to commit any unlawful practices prohibited by this ordinance; or

(14) Otherwise to deny to, or withhold any housing accommodation from a person because of his or her race, color, religion, ancestry national origin, sex or place of birth; or

(15) 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, 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 loans or other financial assistance, because of the race, color, religion, sex, 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; or

(16) To deny any qualified 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 or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, or national origin.

Section 4. EXEMPTIONS

This ordinance shall not apply to:

(1) A religious organization, association, or society or any nonprofit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupance, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such religion is restricted on account of race, color, sex or national origin.

(2) A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members.

(3) 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 of 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, the sale or rental of any such single-family house shall be excepted from the application of this ordinance 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 the provisions of 42 United States Code Section 3604(c) or of Section 3 of this ordinance; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

(4) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupied one of such living quarters as his residence.

Section 5. PROCEDURE

Any person aggrieved by an unlawful practice prohibited by this ordinance may file a complaint with the City Attorney within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty (60) days after the alleged unlawful practice occurred.

Section 6. OTHER REMEDIES

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing his complaint with any appropriate governmental agency.

Section 7. PENALTIES

Any person violating any provision of this ordinance shall, upon conviction thereof, be punished as provided by law.

Section 8. CONFLICTING LAWS REPEALED

All other ordinances or parts of ordinances which may be in conflict herewith are hereby expressly repealed.

Section 9. SEVERABILITY OF INVALID PROVISIONS

In case any one or more of the sections, subsections, clauses or provisions of this ordinance, or the application of such sections, subsections, or clauses or provisions to any situations, circumstances or person, shall for any reason be held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other sections or provisions of this ordinance or the application of such sections, subsections, clauses or provisions to any other situation, circumstance or person, and it is intended that this ordinance shall be constructed and applied as if such section or provision so held unconstitutional or invalid had not been included in this ordinance.

Section 10. EFFECTIVE DATE

This ordinance shall take effect immediately upon publication as provided by law.

PASSED AND ADOPTED this the 12th day of June, 1979.

Stephen C. Kent, Mayor

ATTEST:

Dallas L. Swain, City Clerk

City Clerk