

Proposed Local Law Number 18 Of 2016

County Of Ulster

A Local Law Prohibiting Discrimination On The Basis Of Gender Identity At Places Of Public Accommodation, Resort Or Amusement

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. LEGISLATIVE INTENT AND FINDINGS.

The Ulster County Legislature finds and declares that it is in the interest of the County to protect its citizens from discrimination, prejudice and intolerance and that it is imperative to ensure certain protection for people whose gender and self-image does not fully accord with the legal sex assigned at birth.

The Ulster County Legislature finds that it is necessary to create this local law as neither the State of New York, nor the United States, has enacted a comprehensive law prohibiting discrimination on the basis of gender identity at places of public accommodation, resort or amusement.

The Ulster County Legislature's intent on creating this local law is to prohibit discrimination against transgender people and ensure full and equal accommodations, advantages, facilities, services, and privileges to all residents.

The Ulster County Legislature further encourages the use of single-sex facilities, such as bathrooms, in a manner that is consistent with an individual's gender, regardless of sex assigned at birth, anatomy, medical history, appearance, or the sex indicated on one's identification.

SECTION 2. DEFINITIONS.

As used in this Local Law, the following terms shall have the meanings indicated:

- (a) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives.
- (b) "Gender" shall include actual or perceived sex and shall also include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is

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different from that traditionally associated with the legal sex assigned to that person at birth.

(c) "place of public accommodation, resort or amusement" shall be defined as the term is defined in New York State Executive Law Section 292(9). ~~but shall also include any place within Ulster County that is open to the general public.~~

SECTION 3. PROHIBITION.

All individuals within the jurisdiction of this County shall be entitled to full and equal accommodations, advantages, facilities, services, and privileges any places of public accommodations, resort or amusement, subject to the conditions and limitations established by law and applicable alike to all citizens. No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any such place shall directly or indirectly refuse, withhold from or deny to any person any of the accommodations, advantages, facilities, services, or privileges thereof, or directly or indirectly publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities, services, and privileges of any such place shall be refused, withheld or denied to any person, notwithstanding a persons actual or perceived gender.

SECTION 4. ENFORCEMENT.

~~The Human Rights Commission exists to foster respect for the rights of all citizens and to explore opportunities for improving relations among all people of Ulster County. Pursuant to Article 12-D of the General Municipal Law, the Human Rights Commission is empowered to, among other things, receive complaints, prepare its own plans with a view to reducing and eliminating alleged discrimination, and to hold conferences, and other public meetings in the interest of the constructive resolution of prejudice and discrimination.~~

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~~A. — For the purpose of this Local Law, the term “enforcement officer” shall mean the Ulster County Commissioner of Human Rights, or his/her designee among the members of the commission. The enforcement officer may cause to have issued and served upon the person complained against a written notice, together with a copy of the complaint made against him, which shall specify the provisions of this Local Law of which such person is said to be in violation and a statement of the manner in which that person is said to violate it and shall require the person so complained against to answer the charges of such complaint at a public hearing before the Human Rights Commission or its designated hearing officer at a time not less than thirty (30) days after the date of service of notice.~~

~~B. — If the enforcement officer determines after a hearing that a violation of this Local Law has occurred, a civil penalty may be imposed by the enforcement officer pursuant to Section 5 of this Local Law. Nothing herein shall be construed to prohibit an enforcement officer from commencing a proceeding for injunctive relief to compel compliance with this Local Law.~~

~~C. — Any person who desires to register a complaint under this Local Law may do so in writing to the appropriate enforcement officer within 15 days of the alleged discrimination.~~

~~D. — The decision of any hearing officer shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.~~

SECTION 4. REMEDY

The Human Rights Commission exists to foster respect for the rights of all citizens and to explore opportunities for improving relations among all people of Ulster County. Pursuant to Article 12-D of the General Municipal Law, the Human Rights Commission is empowered to, among other things, receive complaints, prepare its own plans with a view to reducing and eliminating alleged discrimination, and to hold conferences, and other public meetings in the interest of the constructive resolution of prejudice and

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discrimination. Any person who desires to register a complaint under this Local Law may do so in writing to the Ulster County Human Rights Commission within 15 days of the alleged discrimination. The Ulster County Human Rights Commission shall engage in a process of conference, conciliation and persuasion to resolve such complaints. The Ulster County Human Rights Commission, after consultation with the complainant, may report unresolved complaints to the State Division of Human Rights. Nothing herein shall be construed to create or provide for a private right of action or any other remedy not expressly provided for herein.

SECTION 5. PENALTIES.

~~(a) — Any person who violates any portion of this law shall be liable for a civil penalty not to exceed \$250 for each violation and in addition thereto, such person may be enjoined from continuing such violation.~~

~~(b) — The County Attorney may bring an action to recover the civil penalty provided for in this local law in any court of competent jurisdiction.~~

SECTION 6.5. REVERSE PREEMPTION.

This local law shall be null and void on the day that a federal and statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues or promulgates a law(s) preempting such action by the County of Ulster. The County Legislature shall determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

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SECTION 7 6. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 8 7. EFFECTIVE DATE.

~~This law shall take effect 60 days following the authorization of special legislative authority from the State of New York as requested in Resolution No. 11 of 2017.~~

This law shall take effect immediately upon filing with the Secretary of State.