

Local Law Number 4 Of 2004 - A Local Law To Establish A Fair Housing Law In Ulster County

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

SECTION 1. Definitions.

For the purposes of this chapter, the following definitions shall apply to the following terms:

CREED - A formal Statement of beliefs, principles or opinions, including but not limited to religion.

DISABILITY:

A. A physical or mental impairment which substantially limits one or more of such persons' major life activities; or

B. A record of having such an impairment or being regarded as having such an impairment.

C. The term **Disability** does not include current, illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C.A. ' 802).

DISCRIMINATION - Any difference in treatment based on race, creed, color, national origin, sex, sexual orientation, disability, marital status or age and shall include segregation, except that it shall not be **Discrimination** for any religious or denominational institution to devote its facilities, exclusively or primarily, to or for members or to make such selection as is calculated by such institution to promote the religious principles for which it is established or maintained, except for commercial use of such facilities, and provided that such religious or denominational institution does not restrict its members on account of race, color or national origin.

DWELLING and FAMILY - Includes the meanings of those terms as they are defined in ' 4, Subdivisions 4 and 5, respectively, of the Multiple Dwelling Law of the State of New York. **Dwelling** shall also include any vacant land which is offered for sale or lease for the construction or location thereon of a dwelling, as previously defined.

FAMILIAL STATUS:

A. Any person who is pregnant or has a child or is in the process of securing legal custody of any individual who has not attained the age of 18 years; or

B. One or more individuals (who has not attained the age of 18 years) being domiciled with:

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(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent.

HOUSING ACCOMMODATION - Includes any building, structure or portion thereof which is used or occupied, or is intended, arranged or designed to be used or occupied, as the home residence or sleeping place of one or more human beings.

HOUSING FOR SENIOR CITIZENS:

A. Housing provided under a state or federal program that the Secretary of the United States Department of Housing and Urban Development determines is designed to assist elderly people; or

B. Housing intended for, and solely occupied by, persons 62 years of age or older; or

C. Housing intended and operated for occupancy by at least one person 55 years of age or older per unit where;

(1) At least 80% of the units are occupied by at least one person 55 years of age or older per unit; and

(2) The publication of, and adherence to, policies and procedures demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(3) The housing facility or community complies with rules issued by the Secretary of the United States Department of Housing and Urban Development for verification of occupancy, which shall:

(a) Provide for verification by reliable surveys and affidavits; and

(b) Include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of Subsection C (2) of this definition. Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

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OWNER-OCCUPIED - Includes physical possession by the owner and family.

TEMPORARY PERIOD - A period, not to exceed one year, where an owner relinquished possession of his housing accommodation with intent to return to said housing accommodation within said one-year period, or less, as permanent domicile.

SECTION 2. Prohibited acts; exceptions.

A. It shall be unlawful:

(1) Except as otherwise provided in this section, for any owner, lessee, sublessee, assignee, real estate broker, real estate salesman, managing agent of or other person, including but not limited to those having the right to sell, rent, lease, sublease, assign, transfer, negotiate for or otherwise make available to any person or group of persons such housing accommodations, to represent that such housing accommodations are not available for inspection, when in fact they are so available, because of the race, creed, color, sex, sexual orientation, national origin, disability, marital status, familial status or age of such person or persons, or to discriminate against any person because of his race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age in the terms, conditions or privileges of the sale, rental, lease, sublease, assignment, transfer or other disposition of any such housing accommodations or in the furnishing of facilities or services in connection therewith.

(2) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale, rental, lease, sublease, assignment, transfer or other disposition or any such housing accommodations that indicate any preference, limitation or discrimination based on race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age, or an intention to make any such preference, limitation or discrimination.

(3) For profit, to induce any person to sell or rent any dwelling by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age.

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(4) For any person or other entity, whose business involves:

(a) The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing or maintaining a dwelling or which is secured by residential real estate; or

(b) The selling, brokering or appraising of residential real property;

to discriminate against any person in making available such a transaction, as in the terms or conditions of such a transaction, because of race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age.

(5) 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 in the terms or conditions or such access, membership or participation, on account of race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age.

(6) In regard to persons with disabilities:

(a) To refuse to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by the said person, if the modifications may be necessary to afford the said person full enjoyment of the premises, in conformity with the provisions of the New York State Uniform Fire Prevention and Building Code, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter=s agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear

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excepted.

(b) To refuse to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling including public or common areas.

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in accordance with the accessibility requirements of the New York State Uniform Fire Prevention and Building Code, specifically the 1986 revision of ANSI A117.1, to provide that:

[1] The public-use and common-use portions of the dwellings are readily accessible to and usable by persons with disabilities.

[2] All the doors are designed in accordance with the New York State Uniform Fire Prevention and Building Code to allow passage into and within all premises and are sufficiently wide to allow passage by persons in wheelchairs.

[3] All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space, in conformity with the New York State Uniform Fire Prevention and Building Code.

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(7) To coerce, intimidate, threaten or interfere with any person in the exercise of, or on account of his having aided or encouraged any other person in the exercise of, any right granted under this chapter.

B. Exceptions

(1) Nothing in Subsection A (1) of this section shall apply to any housing accommodation occupied in whole or in part by the owner and designed to accommodate three families or less, provided that any such housing accommodation shall be so exempted only if such housing accommodation is sold, rented, leased, subleased, assigned, transferred or otherwise disposed of without the use in any manner of the sales or rental facilities or 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 such broker, agent, salesman, or person.

(2) The provision of this section relating to discrimination based on age and familial status shall not apply to:

(a) A restriction of the sale, rental or lease of any housing accommodation, land or commercial space exclusively to persons 55 years of age or older; or

(b) Housing units for senior citizens as defined in section 1.

(3) The provisions of this section, except for those contained in Subsection A(2) shall not apply to any one- or two-family owner-occupied house, provided that, with respect to one-family owner-occupied house:

(a) The single-family house must be sold or rented by an owner.

(b) The individual owner must not own more than three such houses at any one time.

(c) In the case of a sale by a nonresident owner, this exemption applies only with respect to one sale within a twenty-four month

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period.

(d) The owner must not own an interest in the proceeds from the sale or rental of more than three such single-family houses at any one time.

(e) The sale or rental of the single-family house must be accomplished without the use of a broker or any discriminatory advertisement or notice.

SECTION 3. Fair Housing Board.

A. There is hereby created a Fair Housing Board. Such Board shall consist of three members who shall be appointed by the Ulster County Legislature, from the membership of the Ulster County Human Relations Commission; one of whom shall be designated as chairperson by the Legislature. The members and Chair of the Board shall serve at the pleasure of the Legislature.

B. Two members of the Board shall constitute a quorum for the purpose of conducting the business thereof. A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board. Each member of the Board shall serve without compensation.

C. The Director of the Ulster County Human Relations Commission shall be the Executive Secretary of the Fair Housing Board.

SECTION 4. Formulation of policies by Board.

The Board shall formulate policies to effectuate the purposes of this chapter and may make recommendations to agencies and officers of the County in aid of such policies and purposes.

SECTION 5. Powers and duties of Board.

The Board shall have the following functions, powers and duties:

(A) To establish and maintain its principal headquarters at the office of the Ulster County Human Relations Commission.

(B) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this chapter and the policies and practices of the Board.

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(C) To receive, investigate and conciliate complaints and to pass upon the validity of complaints alleging violation of this chapter.

(D) To hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board.

(E) To issue and to have served cease-and-desist orders and orders dismissing complaints and to pass upon compliance with such orders.

(F) To render each year to the County Legislature a full written report of all of its activities and its recommendation.

(G) To adopt an official seal.

(H) May request the assistance of the Ulster County Attorney's Office which may be provided to carry out the purposes of this local law for matters such as seeking temporary injunctive relief pending the completion of an investigation.

(I) To appoint one or more hearing officers, as shall be necessary to carry out its functions and duties. The hearing officer shall have the same powers possessed by the Board to hold and conduct hearings. The hearing officer shall function under the supervision of the Board and shall make findings of fact and recommendation to the Board.

(J) To award compensatory and punitive damages as set forth in section 6.

SECTION 6. Complaints; hearing.

A. Any person claiming to be aggrieved by a violation of section 2 hereof may, by himself or herself or by his or her attorney at law, make, sign and file with the Executive Secretary of the Board a written, verified complaint which shall state the name and address of the owner or other person alleged to have committed the violation complained of and shall set forth the particulars of the alleged violation and such other information as may be required by the Board. Such complaint shall be filed within 180 days after the alleged act of discrimination.

B. After the filing of any complaint, the Executive Secretary of the Fair Housing Board, acting for the Board, shall within 30 days after receipt make a prompt

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investigation in connection therewith. The Executive Secretary shall determine, after such investigation, whether it has jurisdiction and, if so, whether there is probable cause for crediting the allegations of the complaint. He or she may at any time after the filing of the complaint endeavor to eliminate the alleged unlawful discriminatory practice by conference, conciliation and persuasion. If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint, the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so. Neither the Executive Secretary of the Fair Housing Board nor any member of the Board shall disclose what has transpired in the course of such endeavors except to other members of the Board. The Chair of the County Legislature and members of the County Legislature may be advised upon completion of the proceeding, but the advice of the County Attorney may be sought at any time.

C. Hearing procedure.

(1) In case of failure to eliminate such practice as a result of conferences, conciliation or persuasion, or after a determination following investigation that there is probable cause to believe there has been a violation of Section 2 hereof, the Executive Secretary shall, or in advance thereof if circumstances so warrant, the Executive Secretary may, acting for the Board, cause to be issued and served, in the name of the Legislature, a written notice, together with a copy of such complaint and information concerning procedural rights, which includes the right to answer the allegations prior to the completion of the investigation, to the person alleged to have committed the violation complained of, hereinafter referred to as the Respondent. This party will have to answer the charges of such complaint at a hearing before a hearing examiner, at a time and place to be specified in such notice. The place of any such hearing shall be the office of the Board or such other place as may be designated by it. The evidence in support of the complaint shall be presented by the administrative agency on behalf of the complainant. The aforesaid endeavors at conciliation shall not be received in evidence. The respondent may file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. In the discretion of the hearing examiner, the complainant may be allowed to intervene and present testimony in person or by counsel. The Board or the complainant shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend his or her answer. The Board shall not be bound by strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and recorded. If, upon all the evidence at the hearing the Board shall find that a Respondent has engaged in any unlawful discriminating practice, as defined in this chapter, the Board shall state the findings of fact and shall:

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- (a) Issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice.
- (b) Require such respondent to take such affirmative action as may be indicated to effectuate the provisions of this chapter.
- (c) Award compensatory damages to the person aggrieved of such practice. The person awarded such damages may bring an action in a court of competent jurisdiction to recover such award.
- (d) Award punitive damages to the person aggrieved by such practice. The person awarded such damages may bring an action in a court of competent jurisdiction to recover such award.

(2) The Board shall establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

D. An aggrieved person may commence a civil action in a court of appropriate jurisdiction which includes United States District Court or New York State Courts, not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief. The two-year period shall not include time during which an administrative proceeding under this title was pending. A civil action may be commenced under this subsection whether or not a complaint has been filed under the section, but no action may be filed with respect to the alleged discriminatory housing practice if the aggrieved has already consented to a conciliation agreement, unless his purpose is to enforce the terms of such an agreement. The court may appoint an attorney for the aggrieved person or authorize the continuation of the civil action without the payment of costs if it finds such person unable to bear those costs. If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may award actual or punitive damages and grant any permanent or temporary injunction, temporary restraining order or other order unless this relief affects any contract, sale, encumbrance or lease consummated before the granting of such relief. The court may allow the prevailing party a reasonable attorney's fee and costs.

SECTION 7. Interpretation of provisions.

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The provisions of sections 3 through 6 of this chapter shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained herein shall be deemed to repeal any of the provisions of the Human Rights Law or any law of this state relating to discrimination because of race, creed, color, national origin, sex, sexual orientation, disability, marital status, familial status or age. If an aggrieved individual institutes a civil court action while the procedure herein provided is pending, the procedure herein provided shall continue, but only up to the point where the civil court action is brought to trial. If such individual institutes any civil court action based on such grievance without resorting to the procedure provided in this local law, he or she may not subsequently resort to the procedure herein.

SECTION 8. Effective Date.

This local law shall take effect one hundred and twenty days after adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 30 NOES: 0

(Absent: Legislators Alfonso, Hathaway and Meyer)

FINANCIAL IMPACT:

NONE