

## LOCAL LAW NO. "A" FOR 2013

### A LOCAL LAW FOR THE COUNTY OF ALBANY, NEW YORK AMENDING THE EXISTING "OMNIBUS HUMAN RIGHTS LAW FOR ALBANY COUNTY"

Introduced: 2/11/13

By Mr. Higgins:

RESOLVED that the existing Human Rights Law of Albany County is hereby amended as follows:

#### SECTION 1. PURPOSE; JURISDICTION; POLICY

1. Albany County, being the capital of New York State, with its great cosmopolitan population, recognizes that the health, morals, safety, and welfare of the County and its inhabitants suffers when groups or individuals are discriminated against based on the actual or perceived differences described in this local law. The Albany County Legislature hereby finds and declares that any prejudice, intolerance, bigotry, and discrimination threatens the rights and proper privileges of its inhabitants and menaces the institutions and foundation of a free democratic society.
2. The County of Albany hereby finds and declares that the County has the responsibility to ensure that every individual within its boundaries is afforded an equal opportunity to enjoy a full and productive life, free from violation of basic civil and human rights; that discriminatory practices adversely affecting the equality of opportunity threaten the general welfare of the County and its inhabitants. The County of Albany realizes its obligation to protect the rights and privileges that all individuals have as human beings, and hereby gives the Albany County Human Rights Commission general jurisdiction and power to implement and enforce the provisions of this local law and to hear disputes referred to it through the County's Affirmative Action Officer under this local law, and the appellate jurisdiction to review any order made through the County's Affirmative Action Officer dismissing a complaint for lack of jurisdiction or for want of probable cause. The Human Rights Commission shall have the general jurisdiction and power to set forth and prescribe the duties of the Affirmative Action Officer with respect to the implementation, administration and enforcement of this local law. Nothing in this law shall affect the powers of the Albany County Executive under Articles 3 and 12 of the Albany County Charter, Local Law No. 8 for 1993, as amended by Local Law No. 7 for 1996, Local Law No. 6 and No. 7 for 1998.
3. It shall be the policy of the County of Albany to encourage programs designed to ensure that every individual has an equal opportunity to participate fully in the life of this County, free from violation of their basic civil and human rights; and to prohibit discrimination because of race, ethnicity, sex, creed, color, national origin, gender identity or expression, sexual orientation, age, disability, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, lawful source of income status, status as a domestic violence victim, or because children are, may be or would be residing with such person or persons, in areas of employment, public accommodations, housing and real property transactions.

In establishing this policy the Albany County Legislature makes clear its action is not intended to promote any particular attitude, course of conduct or way of life.

Rather, its purpose is to ensure that individuals who live in our free society have the capacity to make their own choice, follow their own beliefs and conduct their own lives as they see fit, consistent with existing law. Nothing in this legislation should be construed to create, add, alter or abolish any right to marry that may exist under any federal or state constitution or state law.

## SECTION 2. DEFINITIONS

Terms not explicitly defined herein shall have the same meanings as defined and used in Section 292 of the New York Executive Law, as amended, and incorporated herein by reference.

- (1) The term "person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
- (2) The term "employment agency" includes any person undertaking to procure employees or opportunities to work.
- (3) The term "employee" as used in this local law does not include any individual employed by his parents, spouse or child.
- (4) The term "Commission", unless a different meaning clearly appears from the context, means the Albany County Human Rights Commission which is hereby established pursuant to this local law and which shall consist of no more than nine (9) members appointed by the Albany County Legislature upon the recommendations of the County Executive and the Legislature's Majority and Minority Leaders and serving at the pleasure of the County Legislature.
- (5) The term "national origin", for the purpose of this local law, shall include "ancestry". The terms "disability", "marital status" and "sex" as used shall be defined and used for the purpose of this local law as they are defined and used in the New York Executive Law, Article 15, Section 292, as amended, incorporated by reference. The term "sexual orientation" includes actual or expressly perceived homosexuality, heterosexuality, asexuality and bisexuality.
- (6) The term "place of public accommodation, resort or amusement" shall include, except as hereinafter specified, all places included in the meaning of such term as set forth in the New York Executive Law, Article 15, Section 292, as amended, incorporated herein by reference.
- (7) The term "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.
- (8) The term "discrimination" shall include segregation and separation.
- (9) The pronouns "him", "her", "himself", "herself", "he", and "she" are used interchangeably to designate an individual regardless of the gender thereof.
- (10) The term "office", unless a different meaning clearly appears from the context, means the Division of Affirmative Action within the Department of Human Resources.

- (11) The term "disability" shall, in the case of alcoholism, drug addiction or other substance abuse, only apply to a person who (1) is recovering or has recovered and (2) currently is free of such abuse, and shall not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.
- (12) The term "covered entity" means a person required to comply with any provision of this local law.
- (13) The term "occupation" means any lawful vocation, trade, profession or field of specialization.
- (14) The term "alienage or citizenship status" means:
  - (a) The citizenship of any person, or
  - (b) The immigration status of any person who is lawfully entitled to be in the United States.
15. The term "gender identity or expression" means, actual or perceived gender identity, or gender-related appearance, behavior, mannerisms, or other characteristics of an individual, with or without regard to the individual's assigned sex at birth.
16. The term "partnership status" means the status of being in a domestic partnership, as defined herein.
17. The term "lawful source of income" shall include income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.

### SECTION 3. PERSONS PROTECTED

This local law shall protect persons against discrimination on the basis of the following characteristics: actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic.

### SECTION 4. GENERAL POWERS AND DUTIES OF THE COMMISSION

The Commission, by its members or their duly authorized officers or employees, shall have the following functions, powers and duties:

1. To foster mutual respect and understanding among all groups and individuals recognized under this local law as "persons protected".
2. To make such studies in any field of human relationship in the community as in the judgment of the commission will aid in effectuating its general purposes and where desirable, to make the results of such studies public.
3. To inquire into incidents of tension and conflict among or between various groups and individuals recognized under this local law as "persons protected", and to take such action as may be designed to alleviate such tensions and conflict.
4. To conduct and recommend such educational programs as, in the judgment of the Commission, will increase goodwill among inhabitants of the community and open new opportunities into all phases of community life for all inhabitants.

5. To report complaints to the State Division of Human Rights alleging unlawful discriminatory practices under Article Fifteen of the Executive Law.
6. To receive, accept and expend, with the approval of the County Legislature, public grants and private gifts, donations or bequests and other payments, goods and services, notwithstanding any other provision of law. Any moneys so received may be expended by the Commission to effectuate any purpose of this local law, subject to the same limitations as to approval of expenditures and audit as are prescribed for County moneys appropriated for the purpose of this local law.

#### SECTION 5. GENERAL OBLIGATIONS OF THE COMMISSION

The Commission, by its members or their duly authorized officers or employees, shall have the following general obligations:

1. To receive complaints of alleged discrimination in accordance with this local law, to seek the active assistance of the State Division of Human Rights in the resolution of complaints which fall within the jurisdiction of the Division and to prepare its own plans in the case of other complaints with view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion and any other means necessary to carry out the purposes of the this local law.
2. To hold conferences, and other public meetings in the interest of the constructive resolution of any tensions between groups and individuals recognized under this local law as “persons protected”, and the prejudice and discrimination occasioned thereby.
3. To issue such publications and reports of investigations as in its judgment will tend to effectuate the purpose of this local law.
4. To enlist the cooperation and participation of the various groups and individuals that are recognized under this local law as “persons protected,” community organizations, industry and labor organizations media or mass communication, fraternal and benevolent associations, and other groups in an educational campaign devoted to fostering among the diverse groups of the community mutual esteem, justice and equity and opening new opportunities into all phases of community life for all individuals.
5. To encourage and stimulate Albany County agencies to take such action as will fulfill the purposes of this local law.
6. To submit an annual report to the County Executive and County Legislature and to furnish a copy thereof to the State Division of Human Rights.

#### SECTION 6. GENERAL POWERS AND DUTIES OF THE AFFIRMATIVE ACTION OFFICER

The Affirmative Action Officer shall have the following functions, powers and duties:

1. To handle all inquiries from employers, employees, landlords, tenants, individuals and organizations regarding this local law or other problems involving the rights of individuals.
2. To promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this local law and the policies and practices of the Commission in connection therewith in consultation with the Commission subject to approval of the Legislature.

3. To receive, investigate and attempt to conciliate complaints alleging violations of this local law and to refer cases to other organizations where deemed appropriate.
4. To investigate and to make, sign and file complaints alleging violations of this local law, to initiate investigations and studies to carry out the purposes of this local law.
5. To seek the active assistance of the State Division of Human Rights in the resolution of complaints which fall within the jurisdiction of the Division and to address cases of other complaints with view to reducing and eliminating such alleged discrimination through the process of conference, conciliation and persuasion and any other means necessary to carry out the purposes of this local law.
6. To inquire into incidents of and conditions which may lead to tension and conflict among the groups and individuals that are recognized under this local law as "persons protected" and to take such action within the authority granted by law as may be designed to alleviate such conditions tension and conflict.
7. To speak on behalf of the Human Rights Commission to various local and state organizations to implement the educational function of the Human Rights Commission within the community.

## SECTION 7. UNLAWFUL DISCRIMINATORY PRACTICES

1. Employment. It shall be an unlawful discriminatory practice for an employer, an employment agency, a labor organization, joint labor-management committee, or any employee or agent thereof, because of a protected characteristic of such person:
  - (a) to refuse to hire or employ or to bar or to discharge such person from employment;
  - (b) to differentiate in compensation or in terms, conditions or privileges of employment;
  - (c) in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer or employers;
  - (d) to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer;
  - (e) apprentice training programs; or
  - (f) to declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination as to the characteristics protected under this local law.
  - (g) The provisions of this subdivision shall not govern the employment by an employer of his or her parents, spouse, or children; provided, however, that such family members shall be counted as persons employed by an employer for purposes of determining whether an employer is subject to the provisions of this local law.
2. Apprentice training programs. It shall be an unlawful discriminatory practice for an employer, labor organization, employment agency or any joint labor-management

committee controlling apprentice training programs or an employee or agent thereof:

(a) To select persons for an apprentice-training program registered with the State of New York on any basis other than their qualifications, as determined by objective criteria which permit review.

(b) To deny to or withhold from any person because of his or her actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic the right to be admitted to or participate in a guidance program, an apprentice training program, on-the-job training program, or other occupational training or retraining program.

(c) To discriminate against any person in his or her pursuit of such program or to discriminate against such a person in the terms, conditions or privileges of such program because of actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic.

(d) To declare print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for such program or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic or any intent to make any such limitation, specification or discrimination.

3. Employment; religious observance.

(a) It shall be an unlawful discriminatory practice for an employer or an employee or agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, his or her creed or religion, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or holy day or the observance of any religious custom or usage, and the employer shall make reasonable accommodation to the religious needs of such person. Without in any way limiting the foregoing, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of such persons religion he or she observes as a Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, provided, however, that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time at some other mutually convenient time.

(b) "Reasonable accommodation", as used in this subdivision, shall mean such accommodation to an employee's or prospective employee's religious observance or practice as shall not cause undue hardship in the conduct of the employer's business. The employer shall have the burden of proof to show such hardship.

4. Public accommodations. (a) It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation because of the actual or perceived race, ethnicity, sex, creed, color, national origin, age, gender identity or expression, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, or, directly or indirectly, to make any declaration, 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 and privileges of any such place or provider shall be refused, withheld from or denied to any person on account of race, ethnicity, sex, creed, color, national origin, age, gender identity or expression, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic or that the patronage or custom of any person belonging to, purporting to be, or perceived to be, of any particular race, ethnicity, sex, creed, color, national origin, age, gender identity or expression, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic is unwelcome, objectionable or not acceptable, desired or solicited.

(b) Notwithstanding the foregoing, the provisions of this subdivision shall not apply, with respect to age or gender, to places or providers of public accommodation where it is determined that differentiation by age or gender is justified by a compelling interest recognized in current statutory or common law.

(c) The provisions of this subdivision relating to discrimination on the basis of gender shall not prohibit any educational institution subject to this subdivision from making gender distinctions which would be permitted (i) for educational institutions which are subject to section thirty-two hundred one-a of the education law or any rules or regulations promulgated by the state commissioner of education relating to gender or (ii) under sections 86.32, 86.33 and 86.34 of title forty-five of the code of federal regulations for educational institutions covered thereunder.

(d) Nothing in this subdivision shall be construed to preclude an educational institution — other than a publicly operated educational institution — which establishes or maintains a policy of educating persons of one gender exclusively from limiting admissions to students of that gender, as consistent with applicable federal law.

(e) The provisions of this subdivision as they relate to unlawful discriminatory practices by educational institutions shall not apply to the use of particular textbooks or curricular materials.

5. Housing accommodations, land, commercial space and lending practices.

(a) Housing accommodations. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agency or employee thereof:

(1) To refuse to sell, rent, lease approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, because of any lawful source of income of such person, or because children are, may be or would be residing with such person or persons.

(2) To discriminate against any person because of such person's actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, because of any lawful source of income of such person, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith.

(3) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such a housing accommodation or an interest therein or to make any record or inquiry in conjunction with the prospective purchase, rental or lease of such a housing accommodation or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, because of any lawful source of income of such person, or whether children are, may be, or would be residing with a person, or any intent to make such limitation, specification or discrimination.

(4) The provisions of this paragraph (a) shall not apply:

(1) To the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or a member of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or

(2) To the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

(b) Land and commercial space. It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, or approve the sale, rental or lease of land or commercial space or an interest therein, or any agency or employee thereof:

(1) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny or to withhold from any person or group of persons land or commercial space or an interest therein because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or because children are, may be or would be residing with such person or persons.

(2) To discriminate against any person because of actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or because children are, may be or would be residing with such person, in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or an interest therein or in the furnishing of facilities or services in connection therewith.

(3) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of such land or commercial space or an interest therein or to make any record or inquiry in connection with the prospective purchase, rental or lease of such land or commercial space or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or whether children are, may be or would be residing with such person, or any intent to make any such limitation, specification or discrimination.

(c) Real estate brokers. It shall be an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof:

(1) To refuse to sell, rent or lease any housing accommodation, land or commercial space or an interest therein to any person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space or an interest therein to any person or group of persons because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, because of any lawful source of income of such person, or because children are, may be or would be residing with such person or persons, or to represent that any housing accommodation, land or commercial space or an interest therein is not available for inspection, sale, rental or lease when in fact it is so available, or otherwise to deny or withhold any housing accommodation, land or commercial space or an interest therein or any facilities of any housing accommodation, land or commercial space or an interest therein from any person or group of persons because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence

victim, because of any lawful source of income of such person, status as a domestic violence victim, or because children are, may be or would be residing with such person or persons.

(2) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for the purchase, rental or lease of any housing accommodation, land or commercial space or an interest therein or to make any record or inquiry in connection with the prospective purchase, rental or lease of any housing accommodation, land or commercial space or an interest therein which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, any lawful source of income, or to whether children are, may be or would be residing with a person, or any intent to make such limitation, specification or discrimination.

(3) To induce or attempt to induce any person to sell or rent any housing accommodation, land or commercial space or an interest therein by representations, explicit or implicit, regarding the entry or prospective entry into the neighborhood or area of a person or persons of any race, ethnicity, sex, creed, color, gender identity or expression, age, disability, sexual orientation, marital status, familial status, partnership status, national origin, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or a person or persons with any lawful source of income, or a person or persons with whom children are, may be or would be residing.

(d) Lending practices. It shall be an unlawful discriminatory practice for any person, bank, trust company, private banker, savings bank, industrial bank, savings and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the County and if incorporated regardless of whether incorporated under the laws of the state of New York, the United States or any other jurisdiction, or any officer, agent or employee thereof to whom application is made for a loan, mortgage or other form of financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space or an interest therein:

(1) To discriminate against such applicant or applicants because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, sexual orientation, age, marital status, familial status, partnership status, alienage or citizenship status, or predisposing genetic characteristic of such applicant or applicants or of any member, stockholder, director, officer or employee of such applicant or applicants, or of the occupants or tenants or prospective occupants or tenants of such housing accommodation, land or commercial space, or because children are, may be or would be residing with such applicant, or other person in the granting, withholding, extending or renewing, or in the fixing of rates, terms or conditions of any such financial assistance or in the appraisal of any housing accommodation, land or commercial space or an interest therein.

(2) To use any form of application for a loan, mortgage, or other form of financial assistance, or to make any record or inquiry in connection with applications for such financial assistance, or in connection with the appraisal of any housing accommodation, land or commercial space or an interest therein, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, sexual orientation, age, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, or whether children are, may be, or would be residing with a person.

(e) Real estate services. It shall be an unlawful discriminatory practice to deny a person access to, or membership in or participation in, a multiple listing service, real estate brokers' organization, or other service because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, sexual orientation, age, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or because children are, may be or would be residing with such person.

f) Real estate related transactions. It shall be an unlawful discriminatory practice for any person whose business includes the appraisal of housing accommodations, land or commercial space or interest therein or an employee or agent thereof to discriminate in making available or in the terms or conditions of such appraisal on the basis of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, sexual orientation, age, marital status, familial status, partnership status, alienage or citizenship status, predisposing genetic characteristic, status as a domestic violence victim, or because children are, may be or would be residing with such person.

(g) Applicability; persons under eighteen years of age. The provisions of this subdivision, as they relate to unlawful discriminatory practices in housing accommodations, land and commercial space or an interest therein and lending practices on the basis of age, shall not apply to unemancipated persons under the age of eighteen years.

(h) Applicability; discrimination against persons with children. The provisions of this subdivision with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to housing for older persons as defined in paragraphs two and three of subdivision (b) of section thirty-six hundred seven of title forty-two of the United States code and any regulations promulgated thereunder.

(i) Applicability; senior citizen housing. The provisions of this subdivision with respect to discrimination on the basis of age shall not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space or an interest therein exclusively to persons fifty-five years of age or older. This paragraph shall not be construed to permit discrimination against such persons fifty-five years of age or older on the basis of whether children are, may be or would be residing in such housing accommodation or land or an interest therein unless such discrimination is otherwise permitted pursuant to paragraph (h) of this subdivision.

(j) Applicability; dormitory residence operated by educational institution. The provisions of this subdivision relating to discrimination on the basis of gender in housing accommodations shall not prohibit any educational institution from making gender distinctions in dormitory residences which would be permitted under sections 86.32 and 86.33 of title forty-five of the code of federal regulations for educational institutions covered thereunder.

(k) Exemption for special needs of particular age group in publicly assisted housing accommodations. Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the State Division of Human Rights grants an exemption pursuant to section two hundred ninety-six of the executive law based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups; provided however that this paragraph shall not be construed to permit discrimination on the basis of whether children are, may be or would be residing in such housing accommodations unless such discrimination is otherwise permitted pursuant to paragraph (h) of this section.

(l) Applicability; use of criteria or qualifications in publicly assisted housing accommodations. The provisions of this subdivision shall not be construed to prohibit the use of criteria or qualifications of eligibility for the sale, rental, leasing or occupancy of publicly-assisted housing accommodations where such criteria or qualifications are required to comply with federal or state law, or are necessary to obtain the benefits of a federal or state program, or to prohibit the use of statements, advertisements, publications, applications or inquiries to the extent that they state such criteria or qualifications or request information necessary to determine or verify the eligibility of an applicant, tenant, purchaser, lessee or occupant.

(m) Discrimination on the basis of occupation prohibited in housing accommodations. Where a housing accommodation or an interest therein is sought or occupied exclusively for residential purposes, the provisions of this subdivision shall be construed to prohibit discrimination in the sale, rental, or leasing of such housing accommodation or interest therein and in the terms, conditions and privileges of the sale, rental or leasing of such housing accommodation or interest therein and in the furnishing of faculties or services in connection therewith, on account of a person's occupation.

(n) Applicability; lawful source of income. The provisions of this subdivision, as they relate to unlawful discriminatory practices on the basis of lawful source of income, shall not apply to housing accommodations that contain a total of five or fewer housing units, provided, however that the provisions of this subdivision shall apply to all housing accommodations, regardless of the number of units contained in each, of any person who has the rights to sell, rent or lease or approve the sale, rental or lease of at least one housing accommodation within the County that contains six or more housing units, constructed or to be constructed, or an interest therein.

6. Aiding and abetting. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this local law, or to attempt to do so.

7. Retaliation. It shall be an unlawful discriminatory practice for any person engaged in any activity to which this chapter applies to retaliate or discriminate in any manner against any person because such person has (i) opposed any practice forbidden under this local law, (ii) testified or assisted in any proceeding under this local law, (iii) commenced a civil action alleging the commission of an act which would be an unlawful discriminatory practice under this chapter, (iv) provided any information to any litigant in an action commenced under this local law. The retaliation or discrimination complained of under this subdivision need not result in an ultimate action with respect to employment, housing or a public accommodation or in a materially adverse change in the terms and conditions of employment, housing, or a public accommodation, provided, however, that the retaliatory or discriminatory act or acts complained of must be reasonably likely to deter a person from engaging in protected activity.
  
8. Licenses and Permits. It shall be an unlawful discriminatory practice: (a) Except as otherwise provided in paragraph (c), for an agency authorized to issue a license or permit or an employee thereof to discriminate against an applicant for a license or permit because of the actual or perceived race, ethnicity, sex, creed, color, national origin, age, gender identity or expression, marital status, partnership status, familial status disability, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic of such applicant.  
  
(b) Except as otherwise provided in paragraph (c), for an agency authorized to issue a license or permit or an employee thereof to declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for a license or permit or to make any inquiry in connection with any such application, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, ethnicity, sex, creed, color, national origin, age, gender identity or expression, marital status, partnership status, familial status, disability, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic, or any intent to make any such limitation, specification or discrimination.  
  
(c) Nothing contained in this subdivision shall be construed to bar an agency authorized to issue a license or permit from using age or disability as a criterion for determining eligibility for a license or permit when specifically required to do so by any other provision of law.
  
9. Criminal Conviction. (a) It shall be unlawful discriminatory practice for any person to deny any license or permit or employment to any person by reason of his or her having been convicted of one or more criminal offenses, or by reason of a finding of a lack of "good moral character" which is based on his or her having been convicted of one or more criminal offenses, when such denial is in violation of the provisions of article twenty-three-a of the correction law.  
  
(b) Pursuant to section seven hundred fifty-five of the correction law, the provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article seventy-eight of the Civil Practice Law and Rules, and the provisions of this subdivision shall be enforceable against private employers as provided for in this local law. For purposes of this paragraph only, the terms "public agency" and "private employer" shall have the meaning given such terms in section seven hundred fifty of the correction law.

10. Arrest record. It shall be an unlawful discriminatory practice, unless specifically required or permitted by any other law, for any person to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the person involved, any arrest or criminal accusation of such person not then pending against that person which was followed by a termination of that criminal action or proceeding in favor of such person, as defined in subdivision two of section 160.50 of the criminal procedure law, in connection with the licensing, employment or providing of credit to such person; provided, however, that the prohibition of such inquiries or adverse action shall not apply to licensing activities in relation to the regulation of guns firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirtyfour of section 1.20 of the Criminal Procedure Law.

11. Religious principles.

(a) This local law does not apply to employment of those who perform ministerial duties (teaching or spreading the faith, performing devotional services or church governance) for an organization whose primary purpose and function is religious. This local law does not prevent such an organization from restricting membership, services, or use of its facilities to those who are members of the same religion.

(b) Certain employees. For any religious corporation, association, educational institution, or society that is not wholly exempt under subsection (a), this local law does not apply with respect to the employment of individuals whose primary duties consist of teaching or spreading religious doctrine or belief, religious governance, supervision of a religious order, supervision of persons teaching or spreading religious doctrine or belief, or supervision or participation in religious ritual or worship.

12. Employer liability for discriminatory conduct by employee, agent or independent contractor.

(a) An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this local law section other than subdivisions one and two of this local law.

(b) An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision one or two of this section only where:

(1) The employee or agent exercised managerial or supervisory responsibility; or

(2) The employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or

(3) The employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory

conduct.

(c) An employer shall be liable for an unlawful discriminatory practice committed by a person employed as an independent contractor, other than an agent of such employer, to carry out work in furtherance of the employer's business enterprise only where such discriminatory conduct was committed in the course of such employment and the employer had actual knowledge of and acquiesced in such conduct.

(d) Where liability of an employer has been established pursuant to this section and is based solely on the conduct of an employee, agent, or independent contractor, the employer shall be permitted to plead and prove as an affirmative defense that prior to the discriminatory conduct for which it was found liable it had:

(1) Established and complied with policies, programs and procedures for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors, including but not limited to:

(i) A meaningful and responsive procedure for investigating complaints of discriminatory practices by employees, agents and persons employed as independent contractors and for taking appropriate action against those persons who are found to have engaged in such practices;

(ii) A firm policy against such practices which is effectively communicated to employees, agents and persons employed as independent contractors;

(iii) Procedures for the supervision of employees and agents and for the oversight of persons employed as independent contractors reasonably likely to prevent and detect such practices; and

(2) A record of no, or relatively few, known prior incidents of discriminatory conduct by such employee, agent or person employed as an independent contractor or other employees, agents or persons employed as independent contractors.

(e) The demonstration of any of the factors listed above in addition to any other relevant factors shall be considered in mitigation of any damages which may be awarded for a violation of this local law.

13. Applicability; alienage or citizenship status. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or a national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the State of New York or the County of Albany, and when such law or regulation does not provide that state or local law may be more protective of aliens; provided, however, that this provision shall not prohibit inquiries or determinations based on alienage or citizenship status when such actions are necessary to obtain the benefits of a federal program. An applicant for a license or permit issued by the County of Albany may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.

#### 14. Applicability; persons with disabilities.

(a) Requirement to make reasonable accommodation to the needs of persons with disabilities. Except as provided in paragraph (b), any person prohibited by the provisions of this section from discriminating on the basis of disability shall make reasonable accommodation to enable a person with a disability to satisfy the essential requisites of a job or enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.

(b) Whether an employer has provided "reasonable accommodation" to an employee with a disability shall be determined in accordance with the rules, regulations, and interpretive guidelines of the United States Equal Employment Opportunity Commission.

(c) Affirmative defense in disability cases. In any case where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

(d) Use of drugs or alcohol. Nothing contained in this chapter shall be construed to prohibit a covered entity from (i) prohibiting the illegal use of drugs or the use of alcohol at the workplace or on duty impairment from the illegal use of drugs or the use of alcohol, or (ii) conducting drug testing which is otherwise lawful.

#### 15. Disparate impact.

(a) An unlawful discriminatory practice based upon disparate impact is established when:

(1) The complainant demonstrates that a policy or practice of a covered entity or a group of policies or practices of a covered entity results in a disparate impact to the detriment of any group protected by the provisions of this chapter; and

(2) The covered entity fails to plead and prove as an affirmative defense that each such policy or practice bears a significant relationship to a reasonable and significant business objective of the covered entity or does not contribute to the disparate impact; provided, however, that if the complainant demonstrates that a group of policies or practices results in a disparate impact, the complainant shall not be required to isolate which specific policies or practices within the group caused such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the complainant who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to the covered entity and the covered entity fails to prove that such alternative policy or practice would not serve the covered entity as well. "Reasonable and significant business objective" shall include, but not be limited to, successful performance of the job.

(b) The mere existence of a statistical imbalance between a covered entity's challenged demographic composition and the general population is not alone sufficient to establish a prima facie case of disparate impact violation unless the general population is shown to be the relevant pool for comparison, the imbalance is shown to be statistically significant, and there is an identifiable policy or practice or

group of policies or practices that allegedly causes the imbalance.

16. Unlawful boycott or blacklist. It shall be unlawful discriminatory practice (i) for any person to discriminate against, boycott or blacklist or to refuse to buy from, sell to or trade with, any person, because of such person's actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, age, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic, or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person willfully to do any act or refrain from doing any act which enables any such person to take such action. This subdivision shall not apply to:
  - (a) Boycotts connected with labor disputes;
  - (b) Boycotts to protest unlawful discriminatory practices; or
  - (c) Any form of expression that is protected by the First Amendment.
17. Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.
18. Relationship or association. The provisions of this section set forth as unlawful discriminatory practices shall be construed to prohibit such discrimination against a person because of the actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, disability, age, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, or predisposing genetic characteristic of a person with whom such person has a known relationship or association.
19. Victims of Domestic Violence, Sex Offenses or Stalking.
  - (a) Definitions. Whenever used in this chapter, the following terms shall have the following meanings:

“Acts or threats of violence” shall include, but not be limited to acts, which would constitute violations of the penal law.

    - (1) “Victim of domestic violence” shall mean a person who has been subjected to acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.
    - (2) “Victim of sex offenses or stalking” shall mean a victim of acts which would constitute violations of article 130 of the penal law, or a victim of acts which would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

(3) Practices “based on,” “because of,” “on account of,” “as to,” “on the basis of,” or “motivated by” an individual’s “status as a victim of domestic violence,” or “status as a victim of sex offenses or stalking” include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

(b) Unlawful discriminatory practices. It shall be an unlawful discriminatory practice for an employer, or an agent thereof, to refuse to hire or employ or to bar or to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking.

(c) Applicability; actual or perceived victims of domestic violence, sex offenses or stalking. Requirement to make a reasonable accommodation to the needs of victims of domestic violence, sex offenses or stalking. Except as provided in paragraph (c), any person prohibited by this section from discriminating on the basis of actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking shall make a reasonable accommodation to enable a person who is a victim of domestic violence, or a victim of sex offenses or stalking to satisfy the essential requisites of a job provided that the status of a victim of domestic violence or a victim of sex offenses or stalking is known or should have been known by the covered entity.

(d) Documentation of status. Any person required by paragraph (a) to make a reasonable accommodation may require a person requesting the reasonable accommodation pursuant to paragraph (a) to provide certification that the person is a victim of domestic violence, sex offenses or stalking. The person requesting the reasonable accommodation pursuant to paragraph (a) shall provide a copy of such certification to the covered entity within a reasonable period after the request is made. A person may satisfy the certification requirement of this paragraph by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or that individual’s family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. All information provided to the covered entity pursuant to this paragraph, including a statement of the person requesting a reasonable accommodation or any other documentation, record, or corroborating evidence, and the fact that the individual has requested or obtained a reasonable accommodation pursuant to this section, shall be retained in the strictest confidence by the covered entity, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation; or otherwise required by applicable federal, state or local law.

(e) Affirmative defense in domestic violence, sex offenses or stalking cases. In any case where the need for a reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with a reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

## SECTION 8. CERTAIN UNLAWFUL REAL ESTATE PRACTICES

1. It is hereby declared to be the policy of the County of Albany and the purpose of this section to promote fair dealing in real estate transactions, to maintain community stability and security, and to foster racial and social harmony.

2. Definitions.

(a) "Dwelling or real property" means one, two, three or four family residences, and any vacant land which is offered for sale or lease for the construction or location thereon of any such residence.

(b) "Legal notice" means publication daily for one week in a newspaper of general circulation within the County of Albany and written notice to all real estate brokers in the area.

(c) "Real estate broker" means a real estate broker as defined in article twelve-A of the Real Property Law of the State of New York.

(d) "Real estate dealer" means any firm, partnership, association, corporation or person which or who has within the preceding twelve months, sold, traded or exchanged two or more dwellings other than, in the case of a person, such person's own residence.

"Real estate office" means an office or other place of business which is primarily engaged in the business of selling, buying, leasing, or renting real property; listing real property for sale, purchase, lease or rental; or providing brokerage services in connection with such selling, buying, leasing, renting, or listing.

(e) "Solicitation" means requesting, inviting, or inducing by any means, including, but not limited to:

Going in or upon the property of the person to be solicited, except when invited by such person;

Communicating with the person to be solicited by mail, telephone, telegraph or messenger service, except when requested by such person;

(1) Canvassing in streets or other public places;

(2) Distributing handbills, circulars, cards or other advertising matter;

(3) Using loudspeakers, sound trucks, or other voice-amplifying equipment;

(4) Displaying signs, posters, billboards, or other advertising devices other than signs placed upon a real estate office for the purpose of identifying the occupants and service provided therein, provided, however, that the term "solicitation" shall not include advertising in newspapers of general circulation, magazines, radio, television, or telephone directories.

(f) "Block, neighborhood or area" means any forty square blocks within the County of Albany.

3. Unlawful real estate practices.

It shall be unlawful for any real estate broker or dealer or any agent or employee of a real estate broker or dealer:

(1) To represent, for the purpose of inducing or discouraging the purchase, sale or rental, of the listing for purchase, sale, or rental, of any real property, that a change has occurred or will or may occur in the racial, ethnic, or religious composition of any block, neighborhood, or area.

(2) To represent, implicitly or explicitly, for the purpose of inducing or discouraging the purchase, sale, or rental or the listing for purchase, sale, or rental of any real property, that the presence of persons of any particular race, ethnic, or religious background in an area will or may result in:

(i) A lowering of property values in the area;

(ii) Change in the racial, religious or ethnic composition of the area;

(iii) An increase in criminal or anti-social behavior in the area; or

(iv) A change in the racial, ethnic, or religious composition of schools or other public facilities or services in the area.

(b) It shall be unlawful for any real estate broker or dealer or any agency or employee of a real estate broker or dealer:

(i) To make any misrepresentation in connection with the purchase, sale, or rental of any real property, that there will or may be physical deterioration of dwellings in any block, neighborhood or area.

(ii) To refer to race, ethnic, color, or religious background in any advertisement offering or seeking real property for purchase, sale or rental.

#### 4. Remedies.

(a)(1) Any owner of real property who is induced to sell his or her property through or to a real estate broker or real estate dealer by acts committed by such broker or dealer in violation of this local law may institute a civil action against such broker or dealer.

(2) If, in an action instituted pursuant to this subdivision, judgment is rendered in favor of plaintiff, such plaintiff shall be awarded as damages,

(i) The amount of any gains, whether in the form of profits, commission, or otherwise, realized by defendant as the result of the first subsequent arm's length sale, exchange or transfer of the property, or, if defendant acted as a broker, the amount of any commissions received by defendant through the sale, exchange or transfer of plaintiff's property, such gains in all cases to be calculated without regard to any expenses incurred by the defendant, and may in addition be awarded reasonable attorney's fees and court costs; or

(ii) If the defendant has not realized any gains as defined in this subdivision, an

amount equal to the difference between the price for which plaintiff sold his or her property and the fair market value at the time of the sale, or the fair market value of the property at the time the action is commenced, whichever difference is greater, and may in addition be awarded reasonable attorney's fees and court costs.

(b)(1) Any buyer, through or from a real estate broker or real estate dealer, of real property the last owner of which, excluding such broker or dealer, was induced to sell, exchange or transfer his or her property by acts committed by such broker or dealer in violation of this local law may institute a civil action against such broker or dealer.

(2) If, in an action instituted pursuant to paragraph (a) of this subdivision, judgment is rendered in favor of plaintiff, the plaintiff shall be awarded as damages the amount of any gains, whether in the form of profits, commission, or otherwise, realized by defendant as the result of such plaintiff's purchase of the property, such gains in all cases to be calculated without regard to any expenses, incurred by the defendant, and may in addition be awarded reasonable attorneys' fees and court costs.

## SECTION 9. CIVIL RIGHTS DEMONSTRATION PROTECTION

1. It is hereby found that the letter and spirit of the constitution of the United States are being violated in some jurisdictions under color of law with the result that persons from this County and state, as well as from other states, are being subjected to discriminatory treatment in the exercise of their constitutional rights because of race or because they seek the removal of unconstitutional barriers to equal rights. Such persons sometimes referred to as freedom riders and sit-ins, intent upon peaceful resistance to discrimination, segregation and the achievement of the constitutional rights of all persons in all jurisdictions of the United States, have suffered the stigma of criminal proceedings. It is hereby declared to be the policy of the County to remove or to neutralize by affording to such residents appropriate relief to the fullest extent possible, the effect upon residents of this County of such criminal proceedings, resulting from the attempted use of public transportation facilities and other places of public accommodation.

Notwithstanding any provision of this code to the contrary, no person shall be denied any license, right, benefit or privilege extended by this code, or suffer any other disability or disqualification there under, or be denied the right of employment by the County of Albany, solely because of any arrest, apprehension, detention, indictment or other accusation, arraignment, trial, conviction or any other aspect of conviction or adjudication of a crime had under the jurisdiction of the courts of any state or of the United States, which is founded on an act or acts arising out of any peaceful demonstration or other peaceful activity, the object of which is to resist discriminatory treatment in any place of public accommodation as defined by section forty of the civil rights law, or to achieve equal rights for all persons regardless of race, creed, color or national origin.

## SECTION 10. DISCRIMINATORY HARASSMENT OR VIOLENCE

No Person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any

right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or local law of the County when such injury, intimidation, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, predisposing genetic characteristic, lawful source of income, status as a domestic violence victim, or because children are, may be or would be residing with such person, as defined in chapter one of this title.

1. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the County when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, ethnicity, sex, creed, color, national origin, gender identity or expression, age, disability, marital status, familial status, partnership status, sexual orientation, alienage or citizenship status, predisposing genetic characteristic, lawful source of income, status as a domestic violence victim, or because children are, may be or would be residing with such person, as defined in chapter one of this title.
2. Any person who violates subdivision (a) or (b) of this section shall be liable for a civil penalty of not more than ten thousand dollars for each violation, which maybe recovered pursuant to the enforcement provisions of this local law.

## SECTION 11. PROCEDURE

1. Any person claiming to be aggrieved by an unlawful discriminatory practice may, by himself or his attorney, make, sign and file with the Human Rights Commission through the Albany County Affirmative Action Officer a verified complaint in writing which shall state the name and address of the person alleged to have committed the unlawful discriminatory practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the Human Rights Commission through the Affirmative Action Officer. The Human Rights Commission through the Affirmative Action Officer may on its own motion, in like manner make, sign and file such complaint. In connection with the filing of such complaint, the County Attorney or his or her designee is authorized to take proof, issue subpoenas and administer oaths in the manner provided in the civil practice law and rules. Any employer whose employees, or some of them, refuse or threaten to refuse to cooperate with the provisions of this local law, may file with the Human Rights Commission through the Affirmative Action Officer a verified complaint asking for assistance by conciliation or other remedial action.
2. After the filing of any complaint, the Human Rights Commission, through the Affirmative Action Officer, shall promptly serve a copy thereof upon the respondent and all persons the Commission deems to be necessary parties, and make prompt investigation in connection therewith. Within ten days after a complaint is filed, the Affirmative Action Officer shall determine whether the Commission has jurisdiction and, if so, within ninety days after a complaint is filed whether there is probable

cause to believe that the person named in the complaint, hereinafter referred to as the respondent, has engaged or is engaging in an unlawful discriminatory practice. If the Affirmative Action Officer finds with respect to any respondent that the Commission lacks jurisdiction the complaint shall be rejected. If the Commission finds with respect to any respondent that the complaint fails to show probable cause, the Affirmative Action Officer shall cause to be served on the complainant an order, subject to appellate review by the Commission, dismissing said complaint as against the respondent.

3. If in the judgment of the Affirmative Action Officer the circumstances so warrant, he or she may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation and persuasion. Each conciliation agreement shall include provisions requiring the respondent to refrain from committing discriminatory practices in the future and may contain such further provisions as may be agreed upon by the Affirmative Action Officer and the respondent in the agreement. The Affirmative Action Officer shall not disclose what has transpired in the course of such endeavors.
4. If the respondent and the Affirmative Action Officer agree upon conciliation terms, the Affirmative Action Officer shall serve upon the complainant and respondent a copy of the proposed conciliation agreement. If the complainant and respondent agree to the terms of the agreement or fail to object to such terms within fifteen days after its service upon them, the Affirmative Action Officer shall issue an order embodying such conciliation agreement. If the respondent or complainant objects to the agreement, he shall serve a written specification of his objections upon the Affirmative Action Officer within such period.
5. If a conciliation agreement is entered into, the Affirmative Action Officer shall serve a copy of the order embodying such agreement upon all parties to the proceeding.
6. The Affirmative Action Officer on behalf of the Commission shall have the authority to dismiss any complaint for administrative convenience for reasons which may include but are not limited to a.) the Commission being unable to locate a complainant after diligent efforts to do so; b.) the complainant's failure to appear; c.) the complainant's failure to accept a reasonable proposed conciliation agreement; d.) the complainant requests a dismissal and the respondent will not be unduly prejudiced; e.) the complainant has initiated or wants to initiate an action or proceeding in another forum based on the same transaction, acts or alleged discriminatory practice, where the administrative convenience dismissal would not contravene the election of remedies provisions contained in subsequent sections of this local law.
7. Any complaint filed pursuant to this section must be so filed within one year after the alleged discriminatory practice.
8. Not later than one year from the date of a conciliation agreement or an order issued under this section, and at any other time in his/her discretion, the Affirmative Action Officer shall investigate whether the respondent is complying with the terms of such agreement or order. Upon a finding of noncompliance, the Affirmative Action Officer shall take appropriate action to assure compliance.

9. No agent or employee of the Affirmative Action Officer shall make public with respect to a particular person without his consent information from reports obtained by the Affirmative Action Officer except as necessary to the conduct of a proceeding under this section.

## SECTION 12. ENFORCEMENT

Any person aggrieved by any conduct made unlawful by this local law shall be able to maintain an action in a Court of competent jurisdiction for injunctive relief and/or damages under this section.

1. In any action under this local law, any complainant who is a prevailing party shall be entitled to recover any reasonable attorneys fees, costs, expenses, and damages to the same extent as a prevailing party under Title VII of the Civil Rights Act of 1964, as amended.
2. A civil action commenced under this local law must be commenced within three years after the alleged unlawful practice occurred.

## SECTION 13. SEVERABILITY

If any part or provision of this local law, or the application thereof to any individual or circumstance, is held invalid, the remainder of the local law shall not be affected thereby and shall continue in force and effect.

## SECTION 14. CONSTRUCTION CLAUSE

The provisions of this local law shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York State civil and human rights laws, including those laws with provisions comparably-worded to provisions of this local law have been so construed.

*Referred to Personnel Committee. 2/11/13*