

SB



IN
THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK

Dated: August 7, 2024

Sponsored by Councilmember(s): Middleton, Hotchkiss, Porter, Dundon

Introduced by Committee(s) on: Municipal and Public Affairs

LOCAL LAW NO. 4 OF 2024
entitled

A LOCAL LAW AMENDING THE CITY OF
BINGHAMTON CODE CHAPTER 45, BINGHAMTON
HUMAN RIGHTS LAW

WHEREAS, the Council of the City of Binghamton adopted Local Law 08-001 on December 15, 2008, entitled "A Local Law Authorizing the Binghamton Human Rights Law"; and

WHEREAS the City Council wishes to amend Chapter 45, sections 45-2, 45-3, 45-4, 45-5, 45-8, 45-9 to include language regarding "unhoused status" as a protected class as attached hereto and noted in bold.

NOW, THEREFORE, be it enacted by the Council of the City of Binghamton, duly convened in regular session as follows:

Section 1. That the Council of the City of Binghamton hereby adopts the amendment of Chapter 45 as attached hereto.

Section 2. Remainder

Except as hereinabove amended, the remainder of the Charter and Code of the City of Binghamton shall remain in full force and effect.

Section 3. Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 4. Effective Date.

That this Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

LOCAL LAW

Intro. No LL24-04

Perm No. LL24-04

Sponsored by City Council Members: Middleton, Cavanaugh, Hotchkiss, Porter

A LOCAL LAW TO AMEND CITY OF BINGHAMTON CHARTER CHAPTER 45, BINGHAMTON HUMAN RIGHTS LAW

The within Local Law was adopted by the Council of the City of Binghamton.

Date 8/7/24



City Clerk

Date Presented to the Mayor 8/8/24

Date Approved _____

Mayor _____

	Ayes	Nays	Abstain	Absent
Councilmember Porter	✓			
Councilmember Middleton	✓			
Councilmember Cavanaugh	✓			
Councilmember Hotchkiss	✓			
Councilmember Mativetsky	✓			
Councilmember Kosty		✓		
Councilmember Dundon	✓			
Total	6	1	0	0

Code of the City of Binghamton

Adopted Defeated

6 Ayes 1 Nays 0 Abstained 0 Absent

I hereby certify the above to be a true copy of the legislation adopted by the Council of the City of Binghamton at a meeting held on 8/7/24. Approved by the Mayor on _____.

Chapter 45, BINGHAMTON HUMAN RIGHTS LAW [HISTORY: Adopted by the City Council of the City of Binghamton 12-15-08 by L.L. No. 1-2008]

§ 45-1. Name. This Local Law shall be referred to as the Binghamton Human Rights Law.

§ 45-2. Purpose and Intent. [Amended 2-2-09 by Ord. No. 5-2009] It is the intent of the Binghamton City Council, in enacting the Binghamton Human Rights Law, to protect and safeguard the right and opportunity of all persons to be free from discrimination based on a person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, **unhoused status**, marital status, sex, sexual orientation, gender identity or expression, weight or height; and to empower the courts to provide for remedies for any such discrimination. The authority for this Local Law is the exercise of the City's police power to preserve and care for the safety, health, comfort, and general welfare of its residents and visitors.

§ 45-3. Definitions. [Amended 2-2-09 by Ord. No. 5-2009; Amended 3-17-10 by Local Law 1-2010]

"Discriminate, Discrimination or Discriminatory" shall mean any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment in and as a result of that person's actual or perceived age, race, color, creed, religion, national origin, ancestry, disability, **unhoused status**, marital status, sex, sexual orientation, gender identity or expression, weight or height. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

"Educational Institution" shall mean any educational institution and any business, nursing, professional, secretarial, technical, or vocational school. Such term shall not include any educational institutions under the supervision of the Regents of the State of New York.

"Employee" shall mean any individual employed or seeking employment from an employer.

"Employer" shall mean any person who, for compensation, regularly employs five or more individuals, not including the employer's parents, spouse or children. For purposes of this ordinance, an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

"Gender identity or expression" shall mean having a gender identity, self-image, appearance, behavior or expression whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth.

"Person" shall mean any natural person, firm, the City of Binghamton, corporation, partnership, limited liability company, or other organization, association or group of persons however arranged;

"Weight" and "Height" as follows: Weight is a numerical measurement of total body weight, the ratio of a person's weight in relation to height or an individual's unique physical composition of weight through body size, shape and proportions. "Weight" encompasses, but is not limited to, an impression of a person as fat or thin regardless of the numerical measurement. An individual's body size, shape, proportions, and composition may make them appear fat or thin regardless of numerical weight. Height is a numerical measurement of total body height, an expression of a person's height in relation to weight, or an individual's unique physical composition of height through body size, shape and proportions. "Height" encompasses, but is not limited to an impression of a person as tall or short regardless of numerical measurement. The length of a person's limbs in proportion to the person's body may create an impression that the person is short,

tall, or atypically proportioned, independent of numerical measurements of height. "Place of public accommodation" shall include all establishments within the City of Binghamton which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private. "Sexual orientation" means heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

"Unhoused status" means the status of not having a fixed or regular residence, including living on the streets or in a publicly or privately operated shelter designed to provide temporary living arrangements.

§ 45-4. Prohibited Acts of Discrimination - Employment [Amended 3-17-10 by Local Law 1-2010] The opportunity to obtain employment without discrimination is hereby recognized as and declared to be a civil right. With regard to employment, it shall be unlawful for any employers or labor organizations to engage in any of the following acts, wholly or partially for a discriminatory reason:

- A. To discriminate against any individual, with respect to failure to hire, refusal to hire, discharge, compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;
- B. To limit, segregate, or classify employees in any way which would deprive any employee of employment opportunities, or which would otherwise adversely affect his or her status as an employee;
- C. To fail or refuse to refer for employment, or to give negative information to a potential employer of any individual, in such a manner that would deprive an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee; or
- D. To discriminate against any individual seeking or maintaining employment due to their lack of permanent mailing address, or due to their mailing address being that of an emergency shelter or other social service provider.**

§ 45-5. Prohibited Acts of Discrimination - Housing and Real Estate Transactions **and Unhoused Status**. [Amended 3-17-10 by Local Law 1-2010] The opportunity to obtain housing and to engage in real estate transactions without discrimination is hereby recognized as and declared to be a civil right.

With regard to housing and real estate transactions, it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

- A. To discriminate by impeding, delaying, discouraging, imposing different terms, or otherwise limiting or restricting any transaction in real estate;
- B. To discriminate in the terms and conditions, or in performing, or refusing to perform, any act necessary to determining an individual's financial ability to engage in a real estate transaction, or to represent falsely that an interest in real estate is not available for transaction;

- C. For a property manager to discriminate by refusing to provide equal treatment of, or services to, occupants or potential occupants of any real estate which he or she manages; or
- D. It shall not be an unlawful discriminatory practice for an owner, lessor or renter to refuse to rent, lease or sublease a portion of a single family dwelling unit where it is anticipated that the owner, lessor or renter will be occupying any portion of the single-family dwelling.

With regard to unhoused status, it shall be unlawful to engage in any of the following acts wholly or partially for a discriminatory reason:

- A. To impede an individual from the use of and free movement in public spaces, including but not limited to public sidewalks, public parks and green spaces, public transportation, and public buildings, in the same manner as any other person;**
- B. To refuse emergency medical care or unlawfully discharge an individual from a hospital;**
- C. For healthcare or homeless services providers to disregard the protection from disclosure of an individual's records and information to City, municipal, and private entities without appropriate legal authority;**
- D. For any City or municipal entity to infringe upon an individual's reasonable expectation of privacy in their personal property under the Fourth Amendment; or**
- E. For any City or municipal entity to infringe upon an individual's protection from unreasonable search and seizure as protected by the Fourth Amendment.**

§ 45-6. Prohibited Acts of Discrimination - - Business Establishment or Public Accommodations. The opportunity to enter business establishments or public accommodations without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.

§ 45-7. Prohibited Acts of Discrimination - - Educational Institutions. The opportunity to obtain an education without discrimination is hereby recognized as and declared to be a civil right. It shall be unlawful for an educational institution to engage in any of the following acts wholly or partially for a discriminatory reason: to deny, restrict, abridge or condition the use of, or access to, any educational facilities or educational services to any person otherwise qualified.

§ 45-8. General Exceptions. [Amended 3-17-10 by Local Law 1-2010]

- A. It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system based on age such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this Local Law.
- B. Nothing contained in this Local Law shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, or a bona

vide physical requirement.

- C. Nothing contained in this Local Law shall be deemed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised by or controlled by or in connection with a religious organization, from limiting employment, sales or rental of housing accommodations, admission to or giving preference to persons of the same religion or denomination, or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained. Provided however, that this exception shall not apply to any program operated by any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, if the same receives any form of financial assistance from the City of Binghamton.
- D. Nothing contained in this Local Law as it relates to unhoused status shall supersede or otherwise modify any other state, local or federal laws.**

§ 45-9. Private Right of Action. Any person who discriminates or commits any prohibited act against any individual or individuals based upon age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, weight or height, shall be liable in a civil action or proceeding maintained by such individual or group of individuals for injunctive relief, damages, or any other appropriate relief in law or equity. In any such action or proceeding, the court, in its discretion, may allow the party commencing such action or proceeding, if such party prevails, a reasonable attorney's fee as part of the costs. **As it relates to claims based upon unhoused status, a court may only award appropriate injunctive and declaratory relief, actual damages, and, in its discretion, reasonable attorneys' fees and costs to a prevailing plaintiff.**

§45-10. Effective Date. The Binghamton Human Rights Law shall take effect upon filing with the Secretary of State.

§ 45-11. Prohibition on retaliatory action. It shall be an unlawful discriminatory practice for any person, agency, institution, firm, corporation, partnership or other organization, or association or group of persons to whom this chapter applies to retaliate or discriminate against any person because he or she has opposed any practices forbidden under this chapter or because he or she has filed a complaint, testified, or assisted in any proceeding under this chapter.

§ 45-12. Severability. If any clause, sentence, paragraph or part of this Chapter or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Chapter.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Binghamton

Local Law No. 3 of the year 2024

A local law Amending the City of Binghamton Code Chapter 45, Binghamton Human Rights Law
(Insert Title)

Be it enacted by the City Council of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Binghamton

as follows:

WHEREAS, the Council of the City of Binghamton adopted Local Law 08-001 on December 15, 2008, entitled "A Local Law Authorizing the Binghamton Human Rights Law"; and WHEREAS the City Council wishes to amend Chapter 45, sections 45-2, 45-3, 45-4, 45-5, 45-8, 45-9 to include language regarding "unhoused status" as a protected class as attached hereto and noted in bold. NOW, THEREFORE, be it enacted by the Council of the City of Binghamton, duly convened in regular session as follows: Section 1. That the Council of the City of Binghamton hereby adopts the amendment of Chapter 45 as attached hereto. Section 2. Remainder Except as hereinabove amended, the remainder of the Charter and Code of the City of Binghamton shall remain in full force and effect. Section 3. Separability The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the Local Law or part thereof is held inapplicable, had been specifically exempt therefrom. Section 4. Effective Date. That this Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. ³ _____ of 20²⁴ of the (County)(City)(Town)(Village) of Binghamton _____ was duly passed by the City Council _____ on August 7 20²⁴, and was (approved)(not approved) (repassed after disapproval) by the Mayor _____ and was deemed duly adopted on September 6 20²⁴, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

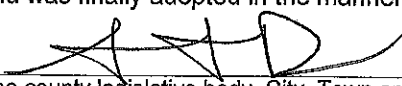
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 09/09/24

(Seal)