

Ordinance No. _____

Ordinance amending Title 8, entitled "Police Regulations," Chapter 5, entitled "Miscellaneous Offenses" to add Hate Crime as a criminal offense.

Whereas, all persons have the right to be free from communications directed at them or their property with the intent to intimidate, annoy, threaten or alarm and without legitimate purpose because of their actual or perceived race, color, religion, creed, national origin, sex, gender identity, sexual orientation, age, disability or marital status; and,

Whereas, all persons have the right to be free from trespasses against their property made with the intent to intimidate, annoy, threaten or alarm and without legitimate purpose because of their actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, disability or marital status; and,

Whereas, the State Hate Crimes provision, Iowa Code Chapter 729A, enhances the penalty for certain crimes when they are committed because of a person's race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age or disability, but harassment and trespass with the intent to harass are not included as enhanceable offenses; and,

Whereas, when the State enhances a penalty it does so by increasing the level of the crime such as making a simple misdemeanor a serious misdemeanor or a serious misdemeanor an aggravated misdemeanor; and,

Whereas, under Iowa law the City may only provide a criminal penalty for a simple misdemeanor as specified by the Iowa Code, which currently is a fine of at least sixty-five dollars but not to exceed six hundred twenty-five dollars and imprisonment not to exceed thirty days in lieu of a fine or in addition to a fine; and,

Whereas, because the State Code does not include harassment or trespass with intent to harass as a hate crime, the City should include harassment and trespass with intent to harass when done because of a characteristic included within the City's human rights ordinance as a simple misdemeanor punishable by a fine and jail time; and

Whereas, it is in the best interest of the City to adopt this ordinance.

Now, therefore, be it ordained by the City Council of the City of Iowa City, Iowa:

Section I. Amendment.

1. Title 8, entitled "Police Regulations," Chapter 5, entitled "Miscellaneous Offenses" is hereby amended by adding a new Section 17 as follows:

8-5-17 VIOLATION OF INDIVIDUAL RIGHTS – HATE CRIME

A. It shall be unlawful for a person to commit a Hate Crime. "Hate crime" means one of the following public offenses when committed against a person or a person's property because of the victim's actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, disability or marital status or the person's association with a person or group with one or more of these actual or perceived characteristics:

1. Harassment under Iowa Code Section 708.7
2. Trespass with the intent to harass under Iowa Code Section 716.8 as defined in Iowa Code Section 716.7(2)(a)(1)

- B. A violation of this section is punishable as follows:
1. First Offense: A minimum fine of \$300 and a maximum fine of \$625.00 and imprisonment of at least three (3) days and not to exceed seven (7) days.
 2. Subsequent Offenses: A fine of \$625.00 and thirty (30) days imprisonment.
- C. Nothing herein shall be construed to allow a court, in the absence of a stipulation by the parties, to admit evidence of speech, beliefs, association, group membership, or expressive conduct unless that evidence is relevant and admissible under the Iowa Rules of Evidence. Nothing herein is intended to affect the existing rules of evidence.

Section II. Repealer. All ordinances and parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

Section III. Severability. If any section, provision or part of the Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section IV. Effective Date. This Ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed and approved this _____ day of _____, 2018.

Mayor

Attest: _____
City Clerk

Approved by

City Attorney's Office