

**CITY OF CLEMSON
AGENDA ITEM REQUEST FORM**

Requested by:

Date Submitted:

Council Meeting Date:

Type of Request: (check only one)

Report/Discussion

Policy/Action

Executive Session

Agenda Item Summary: (brief for public information and posted agenda)

Consider second reading of an amendment to the Code of Ordinances creating a separate offense for biased base crime.

Agenda Item Detail: (expand as necessary for clarification)

According to the Department of Justice, bias-based crime, or "hate crime," often involves assault, murder, arson, vandalism, or threats to commit such crimes. It may also cover conspiring or asking another person to commit such crimes, even if the crime was never carried out. Hate crimes can have a broader effect than most types of crime because they don't only target the victim, but others like them. This ordinance will create a separate offense for bias-based crime and provides appropriate penalties for the same.

No changes have been made since first reading on July 6, 2021.

CITY OF CLEMSON ORDINANCE No. CC-2021-15

AN ORDINANCE ADDING SECTION 13-15 (“HATE INTIMIDATION”) TO THE CODE OF ORDINANCES OF THE CITY OF CLEMSON, SOUTH CAROLINA, THEREBY PROHIBITING THE COMMISSION OF OFFENSES, ATTEMPTED OFFENSES, AND HATE INTIMIDATION BEHAVIOR AND CONDUCT BASED ON ACTUAL OR PERCEIVED RACE, COLOR, ETHNICITY, ANCESTRY, NATIONAL ORIGIN, CULTURAL IDENTITY, GENDER OR GENDER IDENTITY, AGE, RELIGION, SEXUAL ORIENTATION, OR DISABILITY, AND SETTING PENALTIES FOR THE COMMISSION OF THE OFFENSE.

WHEREAS, hate intimidation causes severe harm to victims, but is also divisive in communities and in the country as a whole, harming the public beyond the individual harm to victims; and

WHEREAS, South Carolina is one of only three states not to have enacted some form of statewide hate crimes law; and

WHEREAS, it appears both necessary, proper, and in the best interests of both Clemson residents and visitors for Council to exercise the City’s public health, safety, and police powers to prohibit hate intimidation within the City; and,

THEREFORE, BE IT ORDAINED by the governing body of the City of Clemson, South Carolina, duly assembled with a quorum present, that Section 13-15 be added to the City of Clemson Code of Ordinances, as set forth below:

SECTION 13-15 – HATE INTIMIDATION.

1. A person who commits or attempts to commit an offense or engages in behavior or conduct within the City of Clemson with the intent to intimidate, harass, assault, harm, injure, or threaten another person or to injure the property of a person, in whole or in part, based on the actual or perceived race, color, ethnicity, ancestry, national origin, cultural or social identity, gender or gender identity, age, religion, sexual orientation, or disability of the victim, is guilty of the separate offense of hate intimidation.
2. A violation of this section shall be a misdemeanor and punishable by a fine of not more than \$500.00 and/or by imprisonment for not more than 30 days. The sentence imposed must be consecutive to any sentence for any underlying criminal offense, unless the court articulates on the record the reasons why the sentences should run concurrently.
3. Fines imposed under this section for contemporaneous or concurrent violations of this section shall be assessed for each violation.
4. For reasons stated on the record, the court may suspend the sentence and fine in whole or in part, and require completion of an educational program and/or a course of

counseling. This provision does not constitute creation of a diversion program, nor does it provide for dismissal of any conviction or guilty plea, but instead allows the court flexibility in selecting effective penalties in appropriate cases.

If an educational program and/or counseling is required, that program and/or counseling must be approved by the court in advance, shall be conducted by a public or nonprofit organization or health professional, and shall provide specific and comprehensive training/counseling intended to educate offenders on the harm caused by bias and hate intimidation and to prevent such behavior by offenders in the future.

5. In addition to the penalties provided above, the court may order restitution up to the monetary limits of the court's statutory authority to order restitution, for damages sustained by the victim as direct result of the hate intimidation and/or any underlying offense, including, but not limited to, restitution for medical bills, counseling, or therapy expenses, and expenses resulting from damage to property.
6. Charges issued under this ordinance are to be included in the City's Police Department crime statistics and in the Police Chief's Annual Report in a separate category from other types of charges.

IT IS SO ORDAINED.

SIGNED, SEALED, AND DELIVERED THIS 19th DAY OF July, 2021.

G. Robert Halfacre, Mayor

ATTEST:

Beverly Coleman, City Clerk

Ordinance No. CC-2021-15

First reading: July 6, 2021

Second reading: July 19, 2021