

ORDINANCE

24-0301

AN ORDINANCE TO AMEND THE ORDINANCE OF THE TOWN OF SUMMERVILLE, CHAPTER 16, ARTICLE I, BY ADDING A NEW SECTION 16 ENTITLED HATE INTIMIDATION

WHEREAS, the resident and visitors of the Town of Summerville (Town) are a diverse collection of individuals representing a multitude of races, colors, creeds, religions, ancestries, sexual orientation, gender, gender identities, physical and mental disabilities, and national origins; and

WHEREAS, the Town of Summerville values and wishes to protect its residents and visitors irrespective of their race, color, creed, religion, ancestry, gender, sexual orientation, gender identity, physical or mental disability, or national origin; and

WHEREAS, crimes that are motivated by bias or hate towards any person or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person are an affront to the values held by the Town; and

WHEREAS, the State of South Carolina has yet to adopt a statewide Hate Crime Legislation, and is only one of two states in the United States who have yet to adopt such protections for its citizens and visitors; and

WHEREAS, the Town of Summerville desires to enact a new section of its Code of Ordinances in order to protect its residents and visitors and deter crimes motivated by bias or hate towards any person or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person, and provide separate appropriate penalties in addition to the punishment for the underlying violation of the ordinances of the Town; and

WHEREAS, Summerville Town Council has the authority to enact new sections of its Code of Ordinances when deemed to be in the best interest of the citizens of the Town, and now desires to do so as displayed below.

NOW THEREFORE, be it ordained by the Mayor and Members of Town Council duly assembled;

1. The above Recitals are hereby incorporated into this Ordinance to the same extent as if set out verbatim.
2. Chapter 16, Article I is hereby amended by adding a new Section 16 so that it will hereafter read:

Sec. 16 - HATE INTIMIDATION.

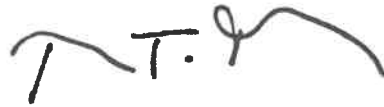
- (a) A person who violates Chapter 16 Article I, Section 16 of the Town of Summerville Code of Ordinances, any act or omission which is prohibited or declared unlawful under the

Town of Summerville Code of Ordinances, or any provision of State law within the municipal limits of the Town of Summerville, with the intent to intimidate a person or persons, in whole or in part, because of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, gender, gender identity, physical or mental disability, or national origin of any person is guilty of the separate offense of hate intimidation and shall be punished as provided in item (b) here within. Sentences shall run consecutive to one another unless the Court specifies on the record good cause why they should run concurrently. The Trier of fact whether, a jury or the Municipal Judge if the defendant waives his/her right to a jury trial, must find the defendant guilty beyond a reasonable doubt. A person cannot be found guilty of Hate Intimidation unless he/she is first convicted under the underlying crime and Hate Intimidation may not be used as a standalone crime.

- (b) Fines imposed under this section for contemporaneous or concurrent violations of this section shall be assessed for each violation,
 - (1) 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 the sentence for the underlying criminal offense unless the Court articulates on the record the reasons why the sentences should run concurrently.
 - (2) The Court may impose community service or participation in an educational program for violation of this Section.
 - (3) Any sentence may be suspended upon completion by the defendant of appropriate education, counseling or community service employment as ordered by the Court.
 - (4) The Court may also designate all or part of the imposed fine be directed to the support of programs designed to combat bias based on ethnicity, national origin, color, religion, sexual orientation, gender and gender identity or physical or mental disability.
- (c) Restitution authorized. In addition to the penalties provided for above, the Court may order restitution up to the limits of the Court's jurisdiction for damages sustained by the victim of this offense directly related to the commission of the crime which may include compensation for medical bills, counseling or therapy or damage to property sustained by the victim as a result of the underlying criminal offense.
- (d) Whenever a law enforcement officer investigates an incident of a crime in which it appears that the defendant intentionally selected any victim or group of victims or any property as the object of the offense because of such victim's or group of victims' actual or perceived [race, color, religion, national origin, sex, sexual orientation, gender, mental disability, or physical disability], whether or not an arrest is made, the officer shall prepare and submit to the law enforcement officer's supervisor or other designated person a written report of the incident entitled 'Bias Crime Report.' Forms for such reports shall be designed and provided by the Summerville Police Department. The report shall include:
 - (1) Names of the parties;
 - (2) Relationship of the parties;
 - (3) Sex and gender of the parties;
 - (4) Race of the parties;
 - (5) Religion of the parties (if religion is involved in the incident);
 - (6) Dates of birth of the parties;
 - (7) Time, place, and date of the incident;

- (8) Whether there is evidence to indicate that the incident occurred because of a person's actual or perceived attributes as specified by Section (a) above;
 - (9) Type and extent of the alleged violation;
 - (10) Existence of any objects or symbols associated with the terrorizing of persons based upon actual or perceived bias as set forth in Section (a) above;
 - (11) Number and types of weapons involved, if any;
 - (12) Existence of any prior difficulties between the parties;
 - (13) Type of police action taken in disposition of case;
 - (14) Whether the victim was apprised of available remedies and services; and
 - (15) Any other information the officer deems pertinent.
- (e) The Summerville Police Department shall develop policies and provide training to Officers on the methodology to investigate hate crimes.

AND, IT IS SO ORDAINED!



Russ Touchberry, Mayor
Town of Summerville

ATTEST:



Beth Messervy, Town Clerk

First Reading: March 14, 2024

Second Reading: May 9, 2024