

ORDINANCE NO. _____

An ordinance to enact Grand Forks City Code § 9-0102.1 relating to Simple Assault—Hate Crime; Grand Forks City Code § 9-0131 relating to Criminal Mischief; Grand Forks City Code § 9-0131.1 relating to Criminal Mischief—Hate Crime; Grand Forks City Code § 9-0132 relating to Harassment, and Grand Forks City Code § 9-0132.1 relating to Harassment—Hate Crime.

BE IT ORDAINED by the City Council of the City of Grand Forks, North Dakota, pursuant to its home rule charter, Grand Forks City Code and N.D.C.C. ch. 40-11 that:

Section 1: Enacting Grand Forks City Code § 9-0102.1.

Grand Forks City Code § 9-0102.1 is enacted to read as follows:

9-0102.1. – Simple Assault—Hate Crime.

It is unlawful for any person to willfully causes bodily injury to another human being in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim.

Section 2: Enacting Grand Forks City Code § 9-0131.

Grand Forks City Code § 9-0131 is enacted to read as follows:

9-0131. – Criminal Mischief.

A person is guilty of an offense if the person:

1. Willfully tampers with tangible property of another so as to endanger person or property; or
2. Willfully damages tangible property of another.

This offense is limited to a recklessly caused pecuniary loss of up to \$2,000 or an intentional caused pecuniary loss of up to \$100.

Section 3: Enacting Grand Forks City Code § 9-0131.1.

Grand Forks City Code § 9-0131.1 is enacted to read as follows:

9-0131. – Criminal Mischief—Hate Crime.

A person is guilty of an offense if the person:

1. Willfully tampers with tangible property of another so as to endanger person or property; or
2. Willfully damages tangible property of another

and the violation of subsection 1 or 2 is done in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim.

This offense is limited to an intentional caused pecuniary loss of up to \$100.

Section 4: Enacting Grand Forks City Code § 9-0132.

Grand Forks City Code § 9-0132 is enacted to read as follows:

9-0132. – Harassment.

1. A person is guilty of an offense if, with the intent to frighten or harass another, the person:
 - A. Makes a telephone call anonymously or in offensively coarse language;
 - B. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or,
 - C. Communicates a falsehood in writing or by electronic communication and causes mental anguish.
2. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
3. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

Section 5: Enacting Grand Forks City Code § 9-0132.1.

Grand Forks City Code § 9-0132.1 is enacted to read as follows:

9-0132.1. – Harassment—Hate Crime.

1. A person is guilty of an offense if, with the intent to frighten or harass another, the person:
 - A. Makes a telephone call anonymously or in offensively coarse language;
 - B. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or,

C. Communicates a falsehood in writing or by electronic communication and causes mental anguish.

and the violation of subsection A, B, or C of subsection 1 is done in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim.

2. Any offense defined herein and committed by use of electronic communication may be deemed to have been committed at either the place at which the electronic communication was made or at the place where the electronic communication was received.
3. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

Section 6: Effectivity.

This ordinance shall be in full force and effect after publication thereof, as provided by law.

Brandon Bochenski, Mayor

Dated: _____

ATTEST:

Maureen Storstad, City Auditor

Dated: _____

Introduction and first reading: 02/22/2022

Public Hearing: 03/07/2022

Second reading and final passage and approval: _____

Approved: _____

Published: _____



City of Grand Forks

Staff Report

City Council – February 22, 2022

March 7, 2022

APPROVED & ACCEPTED
 by City Council

 02/22/22
 Maureen Storstad
 City Auditor

Agenda Item: Hate Crime Ordinances

Submitted by: Joseph Quinn, Assistant City Attorney

Staff Recommended Action:

Committee Recommended Action:

Council Action: 02/22: Motion by Weber, second by Dachtler to approve. Motion carried unanimously.

BACKGROUND:

At the February 14, 2022, meeting of the City Council Committee of the Whole, hate crime ordinances were discussed. Following the discussion, it was requested the City Attorney’s Office draft the following proposed ordinances: Simple Assault—Hate Crime; Criminal Mischief; Criminal Mischief—Hate Crime; Harassment; and, Harassment—Hate Crime.

SUMMARY OF PROPOSED ORDINANCES:

	<u>Simple Assault</u>	<u>Simple Assault—Hate Crime</u>
Elements Requires Proof Beyond a Reasonable Doubt	Willfully cause bodily injury to another human being; OR Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.	Willfully causes bodily injury to another human being in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim. Note: The crime of negligently causing bodily injury found in simple assault is not included. It is not a cognizable crime because the hate crime elements requires intentional conduct that cannot be established by negligent conduct.
Penalty	Class B Misdemeanor —A fine not to exceed \$1,500 and/or imprisonment not to exceed 30 days.	Class B Misdemeanor —A fine not to exceed \$1,500 and/or imprisonment not to exceed 30 days.

	<u>Criminal Mischief</u>	<u>Criminal Mischief—Hate Crime</u>
Elements Requires Proof Beyond a Reasonable Doubt	Willfully tampers with tangible property of another so as to endanger person or property; OR Willfully damages tangible property of another.	Proof of elements of Criminal Mischief (Non-Hate Crime) AND the violation is done in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim.
Limit	This offense is limited to a recklessly caused pecuniary loss of up to, but not exceeding \$2,000 or an intentional caused pecuniary loss of up to but not exceeding \$100. Note: The dollar limitations are imposed because losses above the \$2,000 / \$100 amounts carry a more severe penalty under state law.	This offense is limited to a pecuniary loss of up to, but not exceeding \$100. Note: The dollar limitation is imposed because a loss above \$100 carries a more severe penalty under state law.
Penalty	Class B Misdemeanor	Class B Misdemeanor

	<u>Harassment</u>	<u>Harassment—Hate Crime</u>
Elements Requires Proof Beyond a Reasonable Doubt	Makes a telephone call to frighten or harass anonymously or in offensively coarse language; OR Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; OR Communicates a falsehood in writing or by electronic communication and causes mental anguish.	Proof of elements of Harassment (Non-Hate Crime) AND the violation is done in whole, or in part, because of the actual or perceived race, color, religion, gender, disability, veteran status, sexual orientation, gender identity, national origin, or ancestry of the victim.
Penalty	Class B Misdemeanor	Class B Misdemeanor