

WHEREAS, criminal conduct motivated by, related to, or arising from race, religion, color, disability, sexual orientation, national origin or ancestry, including any act of antisemitism, is a degradation to the societal interest for order, morality, security, general welfare, convenience, health, peace, and good government for the people of the City. See R.A.V. v. City of St. Paul, 505 U.S. 377, 382–83, 112 S. Ct. 2538, 2542–43, 120 L. Ed. 2d 305 (1992) (“From 1791 to the present, however, our society, like other free but civilized societies, has permitted restrictions upon the content of speech in a few limited areas, which are “of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.” (internal citation omitted). We have recognized that “the freedom of speech” referred to by the First Amendment does not include a freedom to disregard these traditional limitations.”);

WHEREAS, prejudice motivated crimes are more likely to provoke retaliatory crimes, inflict distinct emotional harms on their victims, and incite community unrest. See Wisconsin v. Mitchell, 508 U.S. 476, 488, 113 S. Ct. 2194, 2201, 124 L. Ed. 2d 436 (1993);

WHEREAS, the First Amendment to the United States Constitution forbids content based restrictions on speech such that the restriction is actual viewpoint discrimination and “the manner of confrontation cannot consist of selective limitations of speech.” See R.A.V. v. City of St. Paul, 505 U.S. at 392; and,

WHEREAS, selective limitation of speech is not the function of this ordinance, but actions resulting from motivations may be taken into account. See Wisconsin v. Mitchell, 508 U.S. at 486.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Greenwood in meeting assembled that City Code Section 28-42 be added as follows:

Sec. 28-42. - Criminal Conduct because of Prejudice (CCboP) punishable as an Infraction by a Civil Fine

- (1) If a person does all of the following in (a-b), then he shall be guilty of an Infraction if he be:
- (a) found guilty of the commission of a crime against a person or property under the City Code or State law lawfully tried in municipal court; and,
 - (b) found to have intentionally selected the person against whom the crime under (a) is committed or selects the property that is damaged or otherwise affected by the crime under (a) in whole, or in substantial part, because of the actor’s belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry, of that person or the owner or occupant of that property, whether or not the actor’s belief or perception was correct.
- (2) If guilty of an Infraction under (1), the maximum fine is up to \$500.00 per Infraction, assessed in the discretion of the Court, plus any statutory assessments.