



CITY OF NEW BEDFORD

In the Year Two Thousand and Twenty-Two

AN ORDINANCE

Amending Chapter 2, Article IX Commission on Human Relations

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

SECTION 1. Chapter 2, Article IX is hereby amended by striking references to the “commission on human relations”, and replacing them with references to the “human rights commission”; by striking the phrase “M.G.L.A. c. 1518” from Section 2-133(5) and replacing it with “M.G.L.A. c. 151B”; by striking the words “bias-related tensions in the are where the crime was committed” from Section 2-136(e)(2) and replacing them with the words “bias-related tensions in the area where the crime was committed”; and by striking the word “patters” from Section 2-136(e)(3)(c) and replacing it with the word “patterns”; so that Article IX as amended reads as follows:

ARTICLE IX. - HUMAN RIGHTS COMMISSION

Sec. 2-130. - Membership; vacancies; officers; quorum; rules; appropriations.

- (a) There is hereby established a commission on human rights hereinafter called the “commission,” which shall consist of nine (9) members, each of whom shall reside or be employed in the city. Commission members shall serve without compensation and shall be appointed by the mayor and confirmed by the city council. Of the nine (9) members originally appointed to the commission, three (3) shall be appointed for a term ending December 31, 1968, three (3) shall be appointed for a term ending December 31, 1969, and three (3) for a term ending December 31, 1970. Thereafter, as the terms of the original appointees expire, their successors shall be appointed for three-year terms. In the event of death or resignation of any member, a successor shall be appointed to serve the unexpired term by the mayor subject to confirmation by the city council.
- (b) The members shall elect a chairperson, vice-chairperson and a secretary.

- (c) A majority of the commission shall constitute a quorum in the exercise of any of the commission's powers and duties.
- (d) The commission may adopt such practices, rules and regulations as it deems necessary to effectuate the purposes and provisions of this article.
- (e) The city may appropriate such funds as may be necessary to enable the commission to carry out its responsibilities under this article.

Sec. 2-131. - Purpose.

The purpose of the commission shall be:

- (1) To promote mutual understanding and respect among, and encourage and assure equality of opportunity for, all people of the City without regard to their age, race, color, religion, creed, sex, sexual orientation, national origin, ancestry, gender identity, or their physical or mental disability; to conduct such programs of education, study, research, investigation and action as will contribute to the carrying, out of the provisions of this article; and to cooperate with governmental and nongovernmental agencies and organizations in the field of intergroup relations and equal opportunities; and
- (2) To aid and assist in the enforcement of M.G.L.A. c. 151B and c. 151C, c. 272, §§ 92A and 98, and c. 121B, § 32.

Sec. 2-132. - Executive director; appointment, etc.

Annually on April 1 there shall be appointed an executive director of the commission, by the mayor, subject to confirmation by the city council. Said director shall receive such compensation and perform such duties as the commission shall prescribe, subject to approval of the mayor and city council.

Sec. 2-133. - Powers and duties.

The powers and duties of the commission shall be as follows:

- (1) It shall assist federal, state and city agencies, private, civic, religious, business, industrial, labor and other organizations, groups and persons to achieve harmonious intergroup relations in the community as well as to develop and establish positive programs which will help all members of the community enjoy equality of opportunity in all phases of community life.

- (2) It shall study and investigate individual or community problems of limited opportunity, prejudice, discrimination, segregation and disorder and tensions occasioned thereby, and shall be empowered to receive written complaints with relation thereto.
- (3) It may issue reports and publications on its study, research, and investigations to promote greater understanding of the problems, needs, and progress in the field of intergroup relations and equal opportunities.
- (4) It may enter into cooperative working arrangements with the Massachusetts Commission Against Discrimination and other state, local and federal agencies having related responsibilities when such arrangements will aid in carrying out the purpose and provisions of this article.
- (5) Through cooperation with the Massachusetts Commission Against Discrimination and other governmental agencies and officers, and pursuant to this chapter, it may assist any person in the city who has been denied full and equal accommodations in violation of M.G.L.A. c. 272, §§ 92A and 98, c. 121B, § 32, or against whom there has been committed an unfair employment or housing practice in violation of M.G.L.A. c. 151B or c. 151C.
- (6) It may appoint staff in accordance with Massachusetts General Laws as it may deem necessary to carry out its responsibilities under this article, provided that sufficient appropriations have been allocated therefor.
- (7) It may accept outside funds, gifts or bequests, public or private, to help finance its activities under this article.
- (8) It may recommend, to the mayor and city council, legislation or policies which will aid in carrying out the purposes of this article.
- (9) It shall submit an annual report to the mayor and city council.

Sec. 2-134. - Cooperation.

All departments, boards, commissions, agencies, bureaus, officers, officials and employees of the city shall cooperate with the commission in implementing this article, and the heads thereof shall furnish to the commission information in their possession when the commission so requests.

The commission shall attempt by mediation to resolve any complaint over which it has jurisdiction and to recommend to the mayor or other appropriate governmental agency, federal, state or local, such action as it feels will resolve any such complaint and, in the case of any unresolved complaint or in the case of any investigation which would be aided thereby, to hold hearings, subpoena witnesses, compel their attendance, administer oaths, and take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any matter in question or under investigation before the commission. The powers enumerated in this section may be exercised by the majority of the members of the commission only. At any hearing before the commission, a witness shall have the right to be advised and represented by counsel present during any hearings.

As authorized under M.G.L.A. c. 233, § 10, the commission may make application to a justice of the supreme or the superior court, who may, in his discretion, compel the attendance of such witnesses and the giving of testimony before the commission, in the same manner and to the same extent as before such courts.

Sec. 2-135. - Liberal construction of article.

The provisions of this article shall be construed liberally for the accomplishment of the purposes thereof.

Sec. 2-136. - Bias crime.

(a) *Definitions:* As used in this section, the following terms shall have the meaning given in this subsection:

- (1) "Of another": Property is that "of another" if any natural person, corporation, partnership, association, governmental subdivision or instrumentality, other than the actor, has a possessory or proprietary interest therein.
- (2) "Tamper" means to interfere with something improperly, to meddle with it, displace it, made unwarranted alterations in its existing condition, or to deprive, temporarily, the owner or possessor of that thing.
- (3) "Deface" means to place on any public or private property any symbol, object, characterization, appellation, or graffiti, including, but not limited to a burning cross or Nazi swastika.
- (4) "Bias crime" means a criminal act or ordinance violation committed as a result of any motive or intent relating to, or antipathy, animosity or hostility based upon, the race, color,

gender, religion, national origin, age, ancestry, sexual orientation, disability, handicap or health-related condition of any individual or group of individuals.

(b) *Institutional vandalism.* No person shall knowingly vandalize, deface or otherwise damage:

- (1) Any church, synagogue or other building, structure or place used for religious worship or other religious purposes.
- (2) Any cemetery, mortuary, military monument or other facility used for the purpose of burial or memorializing the dead.
- (3) Any school, education facility, community center, hospital or medical clinic owned or operated by a religious or sectarian group.
- (4) The grounds adjacent to, and owned or rented by, any institution, facility, building, structure or other place described in paragraphs (1), (2), or (3) of this subsection.
- (5) Any personal property contained in any institution, facility, building, structure or place described in subdivisions (1), (2), or (3) of this section or on the grounds of such places.

(c) *Ethnic or racial intimidation.* No person shall by reason of any motive or intent relating to, or any antipathy, animosity or hostility based upon, the race, color, gender, religion, national origin, age, ancestry, sexual orientation, disability, handicap or health-related conditions of another individual or group of individuals:

- (1) Purposely cause physical injury to another.
- (2) Attempt to cause physical injury to another.
- (3) Threaten to cause physical injury to another.
- (4) Purposely place another in apprehension of immediate physical danger.
- (5) Knowingly cause physical contact with another person knowing the other person will regard the contact as offensive or provocative.
- (6) Knowingly damage or threaten to damage the personal or real property of another.
- (7) Tamper with the personal or real property of another for the purpose of causing substantial inconvenience to that person or another.
- (8) Trespass on the property of another.

- (9) Commit an act of vandalism.
 - (10) Knowingly assemble with six (6) or more persons and agree with such persons to violate any of the criminal laws of the State of Massachusetts or the United States with force or violence.
 - (11) Discharge or shoot a firearm or threaten to discharge or shoot a firearm into or inside of any building, railroad, train, boat, aircraft or motor vehicle.
 - (12) Discharge a firearm within one hundred (100) yards of any church, synagogue or other building, structure or place used for religious worship or other religious purpose or within one hundred (100) yards of any school, education facility, community center, hospital or medical clinic owned or operated by a religious or sectarian group.
 - (13) Carry a firearm or other weapon of lethal use into any church, synagogue or other buildings, structure or place used for religious worship or other religious purpose or within one hundred (100) yards of any school, education facility, community center, hospital or medical clinic owned or operated by a religious or sectarian group.
 - (14) Brandish a firearm or other weapon in a threatening manner.
 - (15) Deface the property of another.
 - (16) Communicate in writing or by telephone a threat to commit a misdemeanor involving violence or property damage or to commit any felony.
 - (17) Make an anonymous telephone call.
 - (18) Make repeated telephone calls.
- (d) *Police to provide certain information relating to bias crime to human rights commission.*
- (1) Whenever any police officer has identified a victim or victims of a possible bias crime, committed within the City of New Bedford, the police department shall to the extent known, supply the name, address and phone number of the victim(s) to the executive director of the human rights commission, together with other relevant information concerning the victim(s).

- (2) The police department shall on at least a monthly basis, prepare a statistical summary concerning all criminal acts and ordinance violations committed within the City of New Bedford during the previous month which there is reason to believe have been committed as a result of any motive or intent relating to, or any antipathy, animosity or hostility based upon, the race, gender, color, religion, national origin, age, ancestry, sexual orientation, disability, handicap or health-related condition of an individual or group of individuals. A copy of this report shall be forwarded to the human rights commission. This report shall be in a form approved by the police department and the executive director of the human rights commission, but shall, in no event, include the names of persons who are suspected or accused of having committed crimes or ordinance violations.

(e) *Human rights commission to assist victims of bias crime and conduct investigation.*

- (1) Whenever the police department has provided information concerning a victim of a possible bias crime to the executive director of the human rights commission, either the director or a person designated by him shall make reasonable efforts to contact the victim for the purpose of offering to help the victim deal with the police department, prosecutors and other interested agencies.
- (2) In furtherance of the function of the human rights commission set out in section 2-133, the director of the commission may conduct investigations of possible bias crimes to determine if the crime is related to a pattern of discrimination or if, due to bias-related tensions in the area where the crime was committed, further bias crimes or acts of violence are likely to occur if remedial action is not taken. The director of the commission may also conduct investigations to determine if there is a pattern of discrimination or bias-related tensions in an area where he has reason to believe that such patterns or tensions exist, even though no bias crimes have been committed within such area. The director shall present the findings of his investigation to the human rights commission.
- (3) Upon recommendation of the director, or upon its own motion, the commission may call a hearing to investigate bias crimes or to address perceived patterns of discrimination or bias-related tensions. For such purpose, the commission shall be empowered to employ a hearing examiner and/or other employees necessary for such purpose. For the purpose of such hearing, the commission is empowered to:
 - a. Receive evidence and hear testimony related to bias crime, patterns of discrimination, and bias-related tensions.
 - b. Compel the attendance of witnesses and the production of evidence relevant to the matter in question, for investigatory and determinative purposes, by

subpoena issued by the commission and enforce such subpoena in superior court.

c. Issue findings and recommendations concerning ways in which bias crimes, discriminatory patterns and bias-related tensions can be reduced in the affected area.

(4) The commission is hereby authorized to develop and initiate educational and other programs designed to reduce bias-related tensions and the incidence of bias crimes, either in particular areas or on a city-wide basis.

(f) *Penalty.* Any person convicted of violation of paragraphs (b) or (c) of this section shall be punished by a fine of three hundred dollars (\$300.00).

Secs. 2-137 – 2-139. - Reserved.

Section 2. Chapter 2, Article XVI, Section 2-203 is hereby amended by striking the words “human relations commission” and replacing them with the words “human rights commission” so that Section 2-203 as amended reads as follows:

Sec. 2-203. - Established.

Pursuant to M.G.L.A. c. 43, § 5, there is hereby established within the municipal government a department of community services, consisting of a director of community services and other such employees as the mayor may from time to time determine, subject to sufficient appropriation. The department of community services shall provide staff support to the commission for citizens with disabilities, the human rights commission, and the council on aging.

Section 3. Chapter 2, Article XVI, Section 2-205(9) is hereby amended by striking the words “human relations commission” and replacing them with the words “human rights commission” so that Section 2-205(9) as amended reads as follows:

Perform such duties as may be lawfully delegated by the boards and commissions of the city, including but not limited to: the commission for citizens with disabilities, the human rights commission, the board of park commissioners and the council on aging. Said duties shall be performed in accordance with the requirements of the delegating authority and the applicable code or law.

Section 4. This ordinance shall take effect in accordance with the provisions of Chapter 43 of the General Laws.