

12059

O. 77-172

ORDINANCE NO. _____
(New Series)

APR 27 1977

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2,
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING
SECTION 52.80.01 PROHIBITING TRESPASSES
UPON PRIVATELY OPERATED BUSINESS PREMISES.

BE IT ORDAINED, by the Council of The City of San Diego,
as follows:

Section 1. That Chapter V, Article 2, of the San Diego
Municipal Code be and the same is hereby amended by adding
Section 52.80.01 to read as follows:

SEC. 52.80.01 TRESPASSES UPON PRIVATELY OPERATED
BUSINESS PREMISES PROHIBITED

(a) No person shall have the right to use
privately operated business premises which are open
to the general public for any purpose which is con-
trary to the functions or services provided thereon
without the consent of the owner, operator or agent
thereof. It shall be unlawful for any person so
using such property to refuse or fail to leave such
property upon being requested to leave by the owner,
operator or agent thereof.

(b) It shall be unlawful for any person without
the permission of the owner, operator or agent of
privately operated business premises which are open to
the general public to enter upon such premises within
forty-eight (48) hours after having been requested by
the owner, operator or agent thereof to leave therefrom
pursuant to the provisions of subdivision (a).

(c) Exceptions. The provisions of this section shall not apply in any of the following instances:

(1) Where their application results in or is coupled with an act prohibited by the Unruh Civil Rights Act or any other provisions of law relating to prohibited discrimination against any person on account of color, race, religion, sex, creed, ancestry or national origin;

(2) Where their application would result in an interference with or inhibition of peaceful picketing directed toward the business establishment, lawful labor activities, or peaceful political activities;

(3) Where their application results in or is coupled with an act prohibited by Section 365 of the California Penal Code or any other provision of law relating to duties of innkeepers and common carriers;

(4) Where the person who is upon the privately operated business premises which are open to the general public is present under claim or color of legal right. This exception is applicable to situations wherein public officials are present in the course of their official duties and to situations involving disputes wherein the participants have available to them practical and

effective civil remedies such as: marital and post-marital disputes; child custody or visitation disputes; disputes regarding title to or rights in legal property; landlord-tenant disputes; disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute; business-type disputes such as those between partners; debtor-creditor disputes; and instances wherein the person claims a right to be present pursuant to order, decree or process of a court.

Section 2. This ordinance shall take effect and be in force on the 30th day from and after its passage.

MICROFILMED

APPROVED: JOHN W. WITT, City Attorney

OUT 4 1978

By Eugene P. Gordon
Eugene P. Gordon
Deputy City Attorney

APR 27 1977

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Joel M. Strobl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Kathleen Martinez*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 13 1977

APR 27 1977

, and on _____

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

By *Kathleen Martinez*, Deputy.

RECEIVED
CITY CLERK'S OFFICE

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SAN DIEGO, CALIF.

(Seal)

OCT 4 1978

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Office of the City Clerk, San Diego, California

Ordinance
Number

12059

APR 27 1977

Adopted

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ATTORNEYS

San Diego, City of
12th Floor, City Admin. Bldg.
202 C St.
San Diego, Ca 92101
Attn: Kathleen Martinez

MICROFILMED

007 4 1978

CERTIFICATE OF PUBLICATION

No. 12059

IN THE MATTER OF

**PROHIBITING TRESPASSES UPON
PRIVATELY OPERATED BUSINESS
PREMISES**

ORDINANCE NO. 12059

(New Series)

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2, OF THE
SAN DIEGO MUNICIPAL CODE BY ADDING SECTION 52.80.01
PROHIBITING TRESPASSES UPON PRIVATELY OPERATED
BUSINESS PREMISES.

BE IT ORDAINED, by the Council of The City of San Diego, as

follows:
Section 1. That Chapter V, Article 2, of the San Diego Municipal Code
be and the same is hereby amended by adding Section 52.80.01 to read as
follows:

**SEC. 52.80.01 TRESPASSES UPON PRIVATELY OPERATED
BUSINESS PREMISES PROHIBITED**

(a) No person shall have the right to use privately operated
business premises which are open to the general public for any purpose
which is contrary to the functions or services provided thereon
without the consent of the owner, operator or agent thereof. It shall
be unlawful for any person so using such property to refuse or fail to
leave such property upon being requested to leave by the owner,
operator or agent thereof.

(b) It shall be unlawful for any person without the permission of
the owner, operator or agent of privately operated business premises
which are open to the general public to enter upon such premises
within forty-eight (48) hours after having been requested by the
owner, operator or agent thereof to leave therefrom pursuant to the
provisions of subdivision (a).

(c) Exceptions. The provisions of this section shall not apply in
any of the following instances:

(1) Where their application results in or is coupled with an act
prohibited by the Unruh Civil Rights Act or any other provisions
of law relating to prohibited discrimination against any person on
account of color, race, religion, sex, creed, ancestry or national
origin;

(2) Where their application would result in an interference
with or inhibition of peaceful picketing directed toward the
business establishment, lawful labor activities, or peaceful
political activities;

(3) Where their application results in or is coupled with an act
prohibited by Section 385 of the California Penal Code or any
other provision of law relating to duties of innkeepers and com-
mon carriers;

(4) Where the person who is upon the privately operated
business premises which are open to the general public is present
under claim or color of legal right. This exception is applicable to
situations wherein public officials are present in the course of
their official duties and to situations involving disputes wherein
the participants have available to them practical and effective
civil remedies such as: marital and post-marital disputes; child
custody or visitation disputes; disputes regarding title to or
rights in legal property; landlord-tenant disputes; disputes bet-
ween members of the same family or between persons residing
upon the property concerned up until the time of the dispute;
business-type disputes such as those between partners; debtor-
creditor disputes; and instances wherein the person claims a right
to be present pursuant to order, decree or process of a court.

Section 2. This ordinance shall take effect and be in force on the 30th
day from and after its passage.

Introduced on April 13, 1977.

Passed and adopted by the Council of The City of San Diego on April
27, 1977.

AUTHENTICATED BY:

PETE WILSON,

Mayor of The City of San Diego, California.

EDWARD NIELSEN,

City Clerk of The City of San Diego, California.

By KATHLEEN MARTINEZ, Deputy.

(SEAL)

Pub. May 11, 1977.

I, **PATRICIA M. DUTRA** hereby certify
that the San Diego Daily Transcript is a daily newspaper of
general circulation within the provisions of the Government Code
of the State of California, printed and published in the City of San
Diego, County of San Diego, State of California; that I am the
principal clerk of said newspaper; and the

ORDINANCE NO. 12059

is a true and correct copy of which this certificate is annexed and
was published in said newspaper on

May 11, 1977

I certify under penalty of perjury that the foregoing is true and
correct, at San Diego, California, on

May 19, 1977

Patricia M. Dutra
(Signature)

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