

(O-93-78 REV. 2)  
COR. COPY

ORDINANCE NUMBER O- 17897 (NEW SERIES)

ADOPTED ON MAR 15 1993

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A NEW DIVISION 10 ENTITLED "PUBLIC ACCESS TO HEALTH CARE FACILITIES, PLACES OF WORSHIP OR SCHOOLS" AND NEW SECTIONS 52.1001 and 52.1002, TO PROTECT AGAINST IMPEDING ACCESS WITHIN ONE HUNDRED (100) FEET OF A HEALTH CARE FACILITY, PLACE OF WORSHIP OR SCHOOL AND CREATING A PRIVATE RIGHT OF ACTION FOR VIOLATIONS.

WHEREAS, access to health care services, places of worship or schools is critically and uniquely important to the public health, safety and welfare so that persons desiring or needing access to such services should not be hampered, impeded, harassed or intimidated from obtaining those services; and

WHEREAS, persons attempting to access health care facilities, places of worship or schools are subject to harassing or intimidating activity tending to hamper or impede their access to those facilities by demonstrators approaching within extremely close proximity and shouting or waving objects at them; and

WHEREAS, such activity near health care facilities, places of worship or schools creates a "captive audience" situation because persons seeking services cannot avoid the area outside of the facilities if they are to receive the services provided therein, and their physical and emotional ailments or conditions can make them especially vulnerable to the adverse physiological

and emotional effects of such harassing or intimidating activities directed at them from extremely close proximity; and

WHEREAS, the adverse physiological and emotional effects created by such harassing or intimidating activities may pose health risks, interfere with medical treatment, diagnosis or recovery or cause persons to delay or forego medical treatment; and

WHEREAS, such harassing or intimidating activities that tend to hamper, hinder or impede access to health care services, places of worship or schools undermine a person's right to privacy and interfere with a person's right to seek the preservation of personal health or legitimate medical treatment; and

WHEREAS, this "captive audience" situation requires the enactment of reasonable time, place and manner restrictions to separate and protect demonstrators expressing their views and persons wishing to access health care facilities, places of worship or schools without direct confrontation, hindrance, harassment or intimidation; and

WHEREAS, this ordinance is a necessary time, place and manner restriction intended to reconcile and protect the First Amendment rights of demonstrators near health care facilities, places of worship or schools, and the rights of persons using health care facilities, places of worship or schools to be free from direct confrontation, hindrance, harassment, intimidation and harm; and

WHEREAS, this ordinance does not preclude protesting, picketing, demonstrating, leafleting or counselling activities

near a health care facility, place of worship or school, but is intended to preclude only those activities involving harassment, intimidation or intrusion which have the effect of foreclosing, hampering or impeding access by such persons to health care facilities, places of worship or schools; and

WHEREAS, existing law does not adequately protect such access to health care facilities, places of worship or schools;

NOW, THEREFORE,

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 is hereby amended by adding Division 10, and Sections 52.1001 and 52.1002 to read as follows:

**DIVISION 10**

**PUBLIC ACCESS TO HEALTH CARE FACILITIES,  
PLACES OF WORSHIP OR SCHOOLS**

**SEC. 52.1001 IMPEDING ACCESS PROHIBITED**

(a) It is unlawful for any person in the course of demonstration activity within the access area of a health care facility, place of worship or school, acting alone or in concert with others, to fail to withdraw upon request to a distance of at least eight (8) feet away from any person who has made the request.

(b) For purposes of Section 52.1001:

"Access area" means any portion of a public street or other public place or any place open to the public within one hundred (100) feet of an exterior wall of a health care facility, place of worship or school.

"Demonstration activity" includes, but is not be limited to, protesting, picketing, distributing literature, or engaging in oral protest, education or counselling activities.

"Health care facility" means any medical or health facility, hospital or clinic within the City which is licensed under State law or any building, office or other place within the City regularly used by any health care provider licensed under State law to provide medical, nursing, or health care or advice to patients.

(c) For purposes of Section 52.1001, a person may request another person to withdraw by a verbal communication, or by carrying or wearing a visible sign clearly requesting withdrawal.

Verbal statements or signs displaying words or symbols such as "stop it," "withdraw," "back off," "get away," or "leave me alone" shall be sufficient to constitute a request to withdraw under Section 52.1001. Mere statements of opinion or disagreement made in the absence of a request to withdraw shall not be sufficient to constitute a request under Section 52.1001.

(d) For purposes of Section 52.1001, distance shall be measured from that part of the closest demonstrator's body that is nearest to the closest part of the requesting person's body. For purposes of the preceding sentence, the term "body" includes any natural or artificial extension of a person's body, including, but not limited to, an outstretched arm or a hand-held sign.

**SEC. 52.1002 PRIVATE RIGHT OF ACTION**

(a) Any person who is seeking or intends to seek access to a health care facility, place of worship or school and is

aggrieved by an act prohibited by Section 52.1001 may bring an action for damages, injunctive or declaratory relief, as appropriate, in a court of competent jurisdiction against any person who has violated, has conspired to violate or proposes to violate its provisions.

(b) Any person who prevails in an action brought under Section 52.1002 shall be entitled to recover from the violator those damages, costs, attorneys' fees and such other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved person a civil penalty of up to one thousand dollars (\$1,000.00) for each violation.

(c) The remedies provided by Section 55.1002 are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.

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

APPROVED: JOHN W. WITT, City Attorney

By Joseph M. Battaglino  
Joseph M. Battaglino  
Deputy City Attorney

JMB:jp  
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01/08/93 COR. COPY  
03/01/93 REV. 1  
03/01/93 REV. 2  
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03/02/93 COR. COPY  
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OLD LANGUAGE - STRIKE OUT  
NEW LANGUAGE - UNDERLINED

(O-93-78 REV. 2)  
COR. COPY

STRIKEOUT ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2,  
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A  
NEW DIVISION 10 ENTITLED "PUBLIC ACCESS TO  
HEALTH CARE FACILITIES, PLACES OF WORSHIP OR  
SCHOOLS" AND NEW SECTIONS 52.1001 and  
52.1002, TO PROTECT AGAINST IMPEDING ACCESS  
WITHIN ONE HUNDRED (100) FEET OF A HEALTH  
CARE FACILITY, PLACE OF WORSHIP OR SCHOOL AND  
CREATING A PRIVATE RIGHT OF ACTION FOR  
VIOLATIONS.

DIVISION 10

PUBLIC ACCESS TO HEALTH CARE FACILITIES  
PLACES OF WORSHIP OR SCHOOLS

SEC. 52.1001 IMPEDING ACCESS PROHIBITED

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(b) For purposes of Section 52.1001:

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oral protest, education or counselling activities.

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(c) For purposes of Section 52.1001, a person may request another person to withdraw by a verbal communication, or by carrying or wearing a visible sign clearly requesting withdrawal.

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(d) For purposes of Section 52.1001, distance shall be measured from that part of the closest demonstrator's body that is nearest to the closest part of the requesting person's body. For purposes of the preceding sentence, the term "body" includes any natural or artificial extension of a person's body, including, but not limited to, an outstretched arm or a hand-held sign.

**SEC. 52.1002 PRIVATE RIGHT OF ACTION**

(a) Any person who is seeking or intends to seek access to a health care facility, place of worship or school, and is aggrieved by an act prohibited by Section 52.1001 may bring an action for damages, injunctive or declaratory relief, as

appropriate, in a court of competent jurisdiction against any person who has violated, has conspired to violate or proposes to violate its provisions.

(b) Any person who prevails in an action brought under Section 52.1002 shall be entitled to recover from the violator those damages, costs, attorneys' fees and such other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved person a civil penalty of up to one thousand dollars (\$1,000.00) for each violation.

(c) The remedies provided by Section 55.1002 are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.



Passed and adopted by the Council of The City of San Diego on MAR 15 1993  
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING  
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Blonda B. Barnes, 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

MAR 01 1993, and on MAR 15 1993

~~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.

(Seal)

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By Blonda B. Barnes, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-17897</u>	Adopted <u>MAR 15 1993</u>

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CITY CLERKS OFFICE  
SAN DIEGO, CA

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CERTIFICATE OF PUBLICATION

OFFICE OF THE CITY CLERK  
CITY ADMINISTRATION BUILDING  
202 C STREET, 2ND FLOOR  
SAN DIEGO, CA 92101

RECEIVED  
CITY CLERK'S OFFICE  
93 MAR 30 AM 9:35  
SAN DIEGO, CALIF.

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IN THE MATTER OF

NO.

"PUBLIC ACCESS TO HEALTH CARE FACILITIES, PLACES  
OF WORSHIP OR SCHOOLS"

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

**ORDINANCE NUMBER O-17897 (NEW SERIES)**  
AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING A NEW DIVISION 10 ENTITLED "PUBLIC ACCESS TO HEALTH CARE FACILITIES, PLACES OF WORSHIP OR SCHOOLS" AND NEW SECTIONS 52.1001 AND 52.1002 TO PROTECT AGAINST IMPEDING ACCESS WITHIN ONE HUNDRED (100) FEET OF A HEALTH CARE FACILITY, PLACE OF WORSHIP OR SCHOOL AND CREATING A PRIVATE RIGHT OF ACTION FOR VIOLATIONS.  
This ordinance amends Chapter V, Article 2, of the San Diego Municipal Code by adding a new Division 10 and new sections 52.1001 and 52.1002. The ordinance will protect against impeding access within one hundred (100) feet of a health care facility, place of worship or school and create a private right of action for violations.  
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.  
INTRODUCED ON March 1, 1993  
Passed and adopted by the Council of the City of San Diego on March 15, 1993.  
AUTHENTICATED BY: SUSAN GOLDING  
Mayor of The City of San Diego, CA  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, CA  
By RHONDA R. BARNES, Deputy  
Pub. Mar. 29 287735

ORDINANCE NUMBER O-17897 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

MARCH 29

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 29th day of MAR., 19 93.

*Corey Donahue*  
(Signature)

25/8" x 2 = \$71.68