

(O-98-72)

(REV. 1)

ORDINANCE NUMBER O- 18452 (NEW SERIES)

ADOPTED ON DEC 16 1997

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 2,  
DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTIONS 52.1001 AND 52.1002 PERTAINING  
TO ACCESS TO HEALTH CARE FACILITIES, PLACES OF  
WORSHIP AND SCHOOL GROUNDS

WHEREAS, the Council of the City of San Diego finds that access to health care facilities, places of worship and school grounds is critically important to the public health, safety and welfare of the citizens of San Diego; and

WHEREAS, health care facilities, places of worship and school grounds often become sites chosen by persons wishing to protest against or advocate in favor of activities or beliefs being practiced within such sites; and

WHEREAS, such protest or advocacy often escalates into harassing, intimidating or violent confrontations between persons engaged in the protest or advocacy and persons seeking to enter or leave such sites; and

WHEREAS, such confrontations can impede access to such sites and further threaten the public health, safety and welfare of all participants; and

WHEREAS, the City has significant governmental interests in preserving the constitutional rights of those persons entering and leaving such sites, as well as the rights of the persons engaged in lawful protest or advocacy, including but not limited to the rights of medical privacy and freedom of speech; and

WHEREAS, this ordinance is a reasonable time, place and manner restriction intended to reconcile the respective constitutional rights of all parties; and

WHEREAS, this ordinance does not preclude lawful protesting, advocacy, leafleting or counseling activities, but only those activities occurring in violation of this ordinance, that threaten, impair or impede the rights of medical privacy, the freedom to gain access to legitimate health care and educational services, the right to practice one's religion, and the free exercise of constitutionally-protected speech; NOW, THEREFORE,

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

Section 1. That Chapter V, Article 2, Division 10, sections 52.1001 and 52.1002 of the San Diego Municipal Code are hereby amended to read as follows:

**SEC. 52.1001 — Establishment of Fixed Buffer Zone at Entrances And Exits to Health Care Facilities, Places of Worship and School Grounds**

(a) For purposes of Section 52.1001:

“Demonstration activity” includes but is not limited to advocating, protesting, picketing, distributing literature, or engaging in oral advocacy or protest, education or counseling activities.

“Entrance” and “exit” mean any door, gate, opening, or intersection of the public right-of-way and a private walk or path leading to a health care facility, place of worship or school grounds, used by persons to gain access to or leave the premises of a health care facility, place of worship or school grounds.

“Health care facility” means any medical or health facility, hospital or clinic within the City that is licensed as a health care facility under State law or any building, office or other place within the City regularly used by any health care provider licensed under California law to

provide medical, nursing, or health care or advice to patients.

“Place of worship” means a place in which religious worship, as defined under California law, is conducted.

“School grounds” means the building or buildings set aside for purposes of giving instruction, or in which instruction is actually given, that is recognized and licensed as a school by the State of California or any political subdivision thereof, plus any grounds surrounding the school that are enclosed by a fence, wall, hedge or other manner of enclosure.

(b) It is unlawful for any person in the course of demonstration activity in the vicinity of a health care facility, place of worship or school grounds, acting alone or in concert with others, to fail to withdraw, upon the request of a person entering or exiting a health care facility, place of worship or school grounds, to a distance of at least fifteen (15) feet away from any entrance to or exit from the health care facility, place of worship or school grounds. A person who has withdrawn pursuant to this section must remain at least fifteen (15) feet from the entrance or exit only until the person requesting the withdrawal has either: (1) entered the health care facility, place of worship or school grounds, or (2) is outside the fifteen (15) foot zone.

(c) For purposes of this section, a person may request another person to withdraw by an oral communication, or by carrying or wearing a visible sign clearly requesting withdrawal. Oral 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 this section. Mere statements of opinion or disagreement made in the absence of a request to withdraw shall not be sufficient to constitute a request under this section.

(d) For purposes of this section, the distance of fifteen (15) feet shall be measured from

the threshold of the entrance or exit.

**SEC. 52.1002 -- Private Right of Action**

(a) Any person who 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 or has conspired 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 52.1002 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: CASEY GWINN, City Attorney

By



Theresa C. McAteer  
Deputy City Attorney

TCM:rc  
12/3/97  
Or.Dept:Mayor  
O-98-72  
(REV. 1)