

ORDINANCE NUMBER O- 21822 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 11 2024

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2, DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 52.1001, 52.1002 AND ADDING NEW SECTIONS 52.1003, 52.1004, 52.1005, AND 52.1006; AND AMENDING CHAPTER 5, ARTICLE 8, DIVISION 4 BY AMENDING SECTIONS 58.0402 AND 58.0403, RELATING TO PUBLIC ACCESS TO HEALTH CARE FACILITIES, PLACES OF WORSHIP, AND SCHOOL GROUNDS.

WHEREAS, buffer zones generally establish an area around a specific location where speech and demonstration activities are subject to regulations that are not applicable outside that buffer zone area; and

WHEREAS, the City of San Diego adopted a buffer zone ordinance in 1997 applicable to health care facilities, places of worship, and school grounds (Covered Facilities), which has not been amended since its adoption; and

WHEREAS, the City's buffer zone ordinance was adopted to balance often competing rights: to medical privacy, to freely gain access to health care and educational services, to practice religion, and to freely exercise constitutionally protected speech; and

WHEREAS, the current law requires demonstrators within the buffer zone to withdraw to 15 feet away from a person entering or exiting a Covered Facility only if the person asks the demonstrator to do so; and

WHEREAS, the current law is outdated and imposes a significant burden on persons seeking to exercise protected rights while accessing a Covered Facility; and

WHEREAS, demonstration activities around Covered Facilities have subjected students, teachers, parents, worshippers, health care providers and their patients to harassment and abuse from people who attempt to block entrances and exits to Covered Facilities and parking lots used to access these locations; and

WHEREAS, aggressive demonstration activities pose significant public safety threats and risk bodily harm to the demonstrators blocking driveways and doorways, and to the persons trying to access Covered Facilities; and

WHEREAS, Planned Parenthood of the Pacific Southwest reported 75 percent of its staff hear complaints about protest activities from patients on a daily or weekly basis and approximately 70 percent of staff reported patients feeling intimidated, harassed, or threatened by protest activity; and

WHEREAS, places of worship and schools are increasingly exposed to demonstration activity and recently Governor Newsom authorized \$30 million in state funding to protect places of worship from violent attacks and hate crimes that can occur if demonstration activity gets out of hand; and

WHEREAS, the United States Supreme Court recognized the harmful impact of nonconsensual conversations and amplified noise on patients receiving medical treatment and held that government may protect public health and safety by adopting narrowly tailored regulations on demonstration activity near healthcare facilities and further held that a distance of eight feet is sufficient for demonstrators to share their message with those entering Covered Facilities; and

WHEREAS, the Council desires to prevent the obstruction, harassment, and intimidation of people entering and exiting Covered Facilities while preserving the fundamental constitutional rights of people to peacefully assemble and express opinions on matters of public concern; and

WHEREAS, the Council further desires to facilitate healthcare organizations, religious organizations, and schools ability to notify people of their rights under the law and to protect their staff, patients, worshippers, parents and students when needed through maintaining their own legal action under the law; NOW THEREFORE,

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

Section 1. That Chapter 5, Article 2, Division 10 of the San Diego Municipal Code is amended by amending sections 52.1001, 52.1002, and adding new sections 52.1003, 52.1004, 52.1005, and 52.1006, to read as follows:

§52.1001 Purpose and Intent

The Council finds that every person in the City of San Diego has a constitutional right to privacy in accessing healthcare, including reproductive healthcare, to exercise religion, and to access equal educational opportunities, and that intentional efforts to harass or prevent a person from exercising these rights are contrary to the interests of the people of San Diego. The Council further recognizes that every person in the City of San Diego has the constitutional right to assemble peaceably and to exercise free speech rights. It is the purpose of this Division to strike a balance between protecting the rights of those who seek access to healthcare, to practice their religion, and access educational services, while also protecting the rights of those who wish to express themselves.

§52.1002 Definitions

For purposes of this Division, defined terms appear in italics. The following definitions apply:

Consent means to give permission through words or acts to what another person proposes through words or acts.

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*.

Harass and *harassment* mean engaging in a knowing and willful actions or course of conduct directed at a specific person or persons that would seriously alarm or aggravate, cause substantial distress to, *intimidate*, terrorize, threaten, or torment a reasonable person. *Harassment* does not include consensual conversations or displaying a sign from more than eight feet away from a person or persons.

Harassment includes approaching or following a person with the intent to *harass* once the person has indicated they do not want to be approached or followed; intentionally touching or causing physical contact with a person without that person's *consent*; and using violent or threatening gestures toward a person.

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, counseling, referral, information, or advice to patients.

Intimidate means use of credible threats of violence, oppression, or coercion with the intent to prevent a person from accessing a *health care facility, place of worship, school grounds, or a parking lot*.

Obstruct means making ingress to or egress from a *health care facility, place of worship, school grounds, or a parking lot* impassable or unreasonably difficult or hazardous. *Obstruct* includes intentionally blocking or interfering with the safe or free passage of pedestrians or vehicles by any means, intentionally causing a pedestrian to take evasive action to avoid physical contact, and placing signs, tables, chairs, or other objects in a manner that blocks the flow of pedestrian traffic.

Parking lot means property owned, leased, occupied, or otherwise held out to the public by a *health care facility, place of worship, or school* as a place where a person can park a vehicle for the purpose of accessing the *health care facility, place of worship, or school grounds*.

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 on those courses of study required by the California Education Code or maintained pursuant to standards set by the State Board of Education, or in which such instruction is actually given, plus any grounds surrounding the school that are enclosed by a fence, wall, hedge, or other manner of enclosure. *School grounds* does not include the grounds associated with a vocational or professional institution of higher education, including a community or junior college, college,

or university and does not include a private residence where home schooling activities occur.

§52.1003 Establishment of Buffer Zone at Entrances and Exits to Health Care Facilities, Places of Worship, and School Grounds

- (a) Obstructing Access. No person shall *obstruct* an *entrance* or *exit* or access to a *parking lot* at a *health care facility, place of worship, or school grounds*.
- (b) Harassment and Intimidation Prohibited. Within a radius of 100 feet of a *health care facility, place of worship, or school grounds*, no person shall:
 - (1) approach within eight feet of a person in the public right-of-way or sidewalk area who is seeking to enter or exit a *health care facility, place of worship, or school grounds* to *harass* or *intimidate* that person; or
 - (2) *harass* or *intimidate* a person in the public right-of-way or sidewalk area who is seeking to enter or exit a *health care facility, place of worship, or school grounds*.
- (c) Consent Required. Within a radius of 100 feet of a *health care facility, place of worship, or school grounds*, unless the person or motor vehicle occupant *consents*, no person shall:
 - (1) knowingly and willfully approach within eight feet of a person in the public right-of-way or sidewalk area who is seeking to enter or exit a *health care facility, place of worship, or school grounds*, to:
 - (i) pass a leaflet or handbill to that person;
 - (ii) display a sign to that person; or

- (iii) engage in oral protest, education, or counseling.
- (2) knowingly and willfully approach within eight feet of an occupant of a motor vehicle seeking to enter or exit a *parking lot*, to:
 - (i) pass a leaflet or handbill to the motor vehicle occupant;
 - (ii) display a sign to the motor vehicle occupant; or
 - (iii) engage in oral protest, education, or counseling.
- (d) Measuring Eight Feet. For purposes of this Division, eight feet shall be measured from the extension of the body of the person seeking to enter or exit a *health care facility, place of worship, or school grounds* or the exterior of the occupied motor vehicle seeking to enter or exit a *parking lot* to the extension of the body of, or any sign or object held by, another person.
- (e) Measuring 100 Feet. For purposes of this Division, 100 feet shall be measured from the main entrance door, or if the property is fenced and gated then from the main entrance gate, of the *health care facility, place of worship, or school grounds*.
- (f) Exemptions. Section 52.1003 does not apply to:
 - (1) law enforcement or public safety officials acting in the scope of their employment; and
 - (2) employees, agents, or volunteers of the *health care facility, place of worship, or school or school district operating on school grounds* acting within the scope of their employment, agency, or volunteer service.

§52.1004 Noise Limitations

- (a) Within a radius of 100 feet of a *health care facility, place of worship, or school grounds*, no person shall:
- (1) make, or cause to be made, any disturbing, excessive, or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitivities; or
 - (2) make, or cause to be made, any noise which unreasonably interferes with the workings of a *health care facility, place of worship, or school*; or
 - (3) use loud speaking amplifiers or similar devices in a manner that emits a sound level exceeding 55 decibels any point ten feet or more from the noise source.
- (b) Section 52.1004 applies from one hour before until one hour after the posted business hours of the *health care facility, place of worship, or school*.
- (c) This prohibition does not apply when loud speaking amplifiers are operated by law enforcement or public safety officials acting in the scope of their employment.

§ 52.1005 Signage

Nothing in this Division shall prevent a *health care facility, place of worship, or school or school district* operating on *school grounds* from posting signage on property under its control stating the requirements of this Division. Posting

signage is not required for this Division to be effective or enforceable. Signage shall comply with any other applicable requirements of this Municipal Code.

§52.1006 Remedies

- (a) Any person who is aggrieved by an act prohibited by sections 52.1003 or 52.1004 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. An aggrieved person includes any *health care facility, place of worship*, or school or school district operating on *school grounds*.
- (b) Any aggrieved person who prevails in an action brought under section 52.1006(a) shall be entitled to recover from the violator those actual 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 \$2,500 for each violation.
- (c) The remedies provided by section 52.1006 are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.
- (d) Any violation of section 52.1003(a) or (b) shall constitute a misdemeanor. A first conviction for violation of section 52.1003(a) or (b), shall be punishable by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than three months, or by both fine and imprisonment. Each subsequent conviction for violation of section 52.1003(a) or (b) shall be punishable by a fine of not more than \$1000 or

by imprisonment in the County Jail for a period of not more than six months, or by both fine and imprisonment.

- (e) A law enforcement official may order any group of two or more persons who continue to violate this Division after a verbal warning to move to an area at least 100 feet away from any *entrance* or *exit* to a *health care facility, place of worship, or school grounds*. Section 52.1006(e) shall apply from one hour before until one hour after the posted business hours of the *health care facility, place of worship, or school* operating on *school grounds*.

Section 2. That Chapter 5, Article 8, Division 4 of the San Diego Municipal Code is amended by amending sections 58.0402 and 58.0403, to read as follows:

§58.0402 Definitions

All defined terms in this Division appear in italics. As used in this Division:

School grounds has the same meaning as in section 52.1002 of this Code.

School Safety Zone means all property within 1500 feet of *school grounds*.

§58.0403 Minimum Penalties for Violations Occurring in a School Safety Zone

Conviction of a violation of any of the laws specified in section 58.0403(a) - (e), occurring within a *School Safety Zone*, is punishable by a fine of not more than \$1,000, or by imprisonment in the County jail for a period of not more than one year, or both. In all circumstances, the penalty for a first such offense within the *School Safety Zone* shall also include not less than three days or twenty-four hours of community service designed to enhance the safety and learning experience of school students; and for any subsequent such offense occurring within a *School*

Safety Zone, not less than five days or forty hours of community service designed to enhance the safety and learning experience of school students:

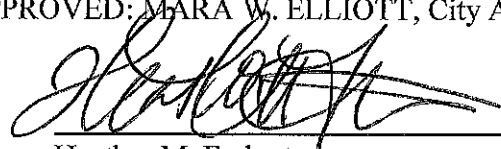
- (a) Loitering for drug use, in violation of Municipal Code section 52.3001;
- (b) Committing any act in violation of Municipal Code section 52.1003;
- (c) Engaging in disorderly or offensive conduct in a public place, in violation of Municipal Code section 56.27;
- (d) Consuming alcohol in a public place, in violation of Municipal Code section 56.54(b); and
- (e) Committing any crime involving “a pattern of criminal gang activity,” as that term is defined in California Penal Code section 186.22.

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Heather M. Ferbert
Senior Chief Deputy City Attorney

HMF:sc:jdf:cm
05/06/2024
06/26/2024 COR. COPY
Or.Dept: City Attorney
Doc. No. 3511340_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(See attached memo and signature page.)

**Office of
The City Attorney
City of San Diego**

MEMORANDUM

DATE: June 26, 2024
TO: City Clerk
FROM: Heather Ferbert, Deputy City Attorney
SUBJECT: O-21822

Please see the attached Ordinance O-2024-114 COR. COPY. Corrections made to Sections 52.1001 and 52.1002, by adding the titles to each section.

HMF:jdf

Enclosure

cc: Krystell Medina, Legislative Recorder
Gilberto Sanchez, Associate Management Analyst

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 04 2024.

DIANA J.S. FUENTES
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 6/11/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2, DIVISION 10 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 52.1001, 52.1002 AND ADDING NEW SECTIONS 52.1003, 52.1004, 52.1005, AND SECTION 52.1006; AND AMENDING CHAPTER 5, ARTICLE 8, DIVISION 4 BY AMENDING SECTIONS 58.0402 AND 58.0403, RELATING TO PUBLIC ACCESS TO HEALTH CARE FACILITIES, PLACES OF WORSHIP, AND SCHOOL GROUNDS.

§52.1001 ~~Establishment of Fixed Buffer Zone at Entrances And Exits to Health Care Facilities, Places of Worship and School Grounds~~ Purpose and Intent

(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.~~

The Council finds that every person in the City of San Diego has a constitutional right to privacy in accessing healthcare, including reproductive healthcare, to exercise religion, and to access equal educational opportunities, and that intentional efforts to harass or prevent a person from exercising these rights are contrary to the interests of the people of San Diego. The Council further recognizes that every person in the City of San Diego has the constitutional right to assemble peaceably and to exercise free speech rights. It is the purpose of this Division to strike a balance between protecting the rights of those who seek access to healthcare, to practice their religion, and access educational services, while also protecting the rights of those who wish to express themselves.

§52.1002 Private Right of Action Definitions

- (a) ~~Any person who is aggrieved by an act prohibited by Sections 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 aggrieved 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~~6~~ are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.~~

For purposes of this Division, defined terms appear in italics. The following definitions apply:

Consent means to give permission through words or acts to what another person proposes through words or acts.

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*.

Harass and harassment mean engaging in a knowing and willful actions or course of conduct directed at a specific person or persons that would seriously alarm or aggravate, cause substantial distress to, *intimidate, terrorize, threaten, or torment a reasonable person. Harassment* does not include consensual conversations or displaying a sign from more than eight feet away from a person or persons.

Harassment includes approaching or following a person with the intent to *harass*

once the person has indicated they do not want to be approached or followed; intentionally touching or causing physical contact with a person without that person's consent; and using violent or threatening gestures toward a person.

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, counseling, referral, information, or advice to patients.

Intimidate means use of credible threats of violence, oppression, or coercion with the intent to prevent a person from accessing a health care facility, place of worship, school grounds, or a parking lot.

Obstruct means making ingress to or egress from a health care facility, place of worship, school grounds, or a parking lot impassable or unreasonably difficult or hazardous. Obstruct includes intentionally blocking or interfering with the safe or free passage of pedestrians or vehicles by any means, intentionally causing a pedestrian to take evasive action to avoid physical contact, and placing signs, tables, chairs, or other objects in a manner that blocks the flow of pedestrian traffic.

Parking lot means property owned, leased, occupied, or otherwise held out to the public by a health care facility, place of worship, or school as a place where a person can park a vehicle for the purpose of accessing the health care facility, place of worship, or school grounds.

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 on those courses of study required by the California Education Code or maintained pursuant to standards set by the State Board of Education, or in which such instruction is actually given, plus any grounds surrounding the school that are enclosed by a fence, wall, hedge, or other manner of enclosure. School grounds does not include the grounds associated with a vocational or professional institution of higher education, including a community or junior college, college, or university and does not include a private residence where home schooling activities occur.

§52.1003

Establishment of Buffer Zone at Entrances and Exits to Health Care Facilities, Places of Worship, and School Grounds

- (a) Obstructing Access. No person shall obstruct an entrance or exit or access to a parking lot at a health care facility, place of worship, or school grounds.
- (b) Harassment and Intimidation Prohibited. Within a radius of 100 feet of a health care facility, place of worship, or school grounds, no person shall:
 - (1) approach within eight feet of a person in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds to harass or intimidate that person; or

- (2) harass or intimidate a person in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds.
- (c) Consent Required. Within a radius of 100 feet of a health care facility, place of worship, or school grounds, unless the person or motor vehicle occupant consents, no person shall:
- (1) knowingly and willfully approach within eight feet of a person in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds, to:
- (i) pass a leaflet or handbill to that person;
 - (ii) display a sign to that person; or
 - (iii) engage in oral protest, education, or counseling.
- (2) knowingly and willfully approach within eight feet of an occupant of a motor vehicle seeking to enter or exit a parking lot, to:
- (i) pass a leaflet or handbill to the motor vehicle occupant;
 - (ii) display a sign to the motor vehicle occupant; or
 - (iii) engage in oral protest, education, or counseling.
- (d) Measuring Eight Feet. For purposes of this Division, eight feet shall be measured from the extension of the body of the person seeking to enter or exit a health care facility, place of worship, or school grounds or the exterior of the occupied motor vehicle seeking to enter or exit a parking lot to the extension of the body of, or any sign or object held by, another person.

- (e) Measuring 100 Feet. For purposes of this Division, 100 feet shall be measured from the main entrance door, or if the property is fenced and gated then from the main entrance gate, of the health care facility, place of worship, or school grounds.
- (f) Exemptions. Section 52.1003 does not apply to:
 - (1) law enforcement or public safety officials acting in the scope of their employment; and
 - (2) employees, agents, or volunteers of the health care facility, place of worship, or school or school district operating on school grounds acting within the scope of their employment, agency, or volunteer service.

§52.1004

Noise Limitations

- (a) Within a radius of 100 feet of a health care facility, place of worship, or school grounds, no person shall:
 - (1) make, or cause to be made, any disturbing, excessive, or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitivities; or
 - (2) make, or cause to be made, any noise which unreasonably interferes with the workings of a health care facility, place of worship, or school; or
 - (3) use loud speaking amplifiers or similar devices in a manner that emits a sound level exceeding 55 decibels any point ten feet or more from the noise source.

- (b) Section 52.1004 applies from one hour before until one hour after the posted business hours of the *health care facility, place of worship, or school.*
- (c) This prohibition does not apply when loud speaking amplifiers are operated by law enforcement or public safety officials acting in the scope of their employment.

§ 52.1005 **Signage**

Nothing in this Division shall prevent a *health care facility, place of worship, or school or school district operating on school grounds* from posting signage on property under its control stating the requirements of this Division. Posting signage is not required for this Division to be effective or enforceable. Signage shall comply with any other applicable requirements of this Municipal Code.

§52.1006 **Remedies**

- (a) Any person who is aggrieved by an act prohibited by sections 52.1003 or 52.1004 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. An aggrieved person includes any *health care facility, place of worship, or school or school district operating on school grounds.*
- (b) Any aggrieved person who prevails in an action brought under section 52.1006(a) shall be entitled to recover from the violator those actual 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 \$2,500 for each violation.

- (c) The remedies provided by section 52.1006 are in addition to any other legal or equitable remedies the aggrieved person may have and are not intended to be exclusive.
- (d) Any violation of section 52.1003(a) or (b) shall constitute a misdemeanor. A first conviction for violation of section 52.1003(a) or (b), shall be punishable by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than three months, or by both fine and imprisonment. Each subsequent conviction for violation of section 52.1003(a) or (b) shall be punishable by a fine of not more than \$1000 or by imprisonment in the County Jail for a period of not more than six months, or by both fine and imprisonment.
- (e) A law enforcement official may order any group of two or more persons who continue to violate this Division after a verbal warning to move to an area at least 100 feet away from any *entrance or exit to a health care facility, place of worship, or school grounds*. Section 52.1006(e) shall apply from one hour before until one hour after the posted business hours of the *health care facility, place of worship, or school operating on school grounds*.

§58.0402 Definitions

All defined terms in this Division appear in italics. As used in this Division:

“*School grounds*” has the same meaning as in ~~S~~section 52.1004~~2~~ of this Code.

“*School Safety Zone*” means all property within 1500 feet of ~~school grounds~~*school grounds*.

§58.0403 Minimum Penalties for Violations Occurring in a School Safety Zone

Conviction of a violation of any of the laws specified in ~~S~~section 58.0403(a) - (e), occurring within a *School Safety Zone*, is punishable by a fine of not more than \$1,000, or by imprisonment in the County jail for a period of not more than one year, or both. In all circumstances, the penalty for a first such offense within the *School Safety Zone* shall also include not less than three days or twenty-four hours of community service designed to enhance the safety and learning experience of school students; and for any subsequent such offense occurring within a *School Safety Zone*, not less than five days or forty hours of community service designed to enhance the safety and learning experience of school students:

- (a) Loitering for drug use, in violation of Municipal Code section 52.3001;
- (b) Committing any act in violation of Municipal Code section 52.1004~~3~~3;
- (c) Engaging in disorderly or offensive conduct in a public place, in violation of Municipal Code section 56.27;
- (d) Consuming alcohol in a public place, in violation of Municipal Code section 56.54(b); and

- (e) Committing any crime involving “a pattern of criminal gang activity,” as that term is defined in California Penal Code section 186.22~~3~~₂

HMF:sc:jdf:cm
05/06/2024
Or.Dept: City Attorney
Doc. No. 3511342

Passed by the Council of The City of San Diego on JUN 04 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 11 2024.

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Kristelle Medina, 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

MAY 21 2024

, and on JUN 11 2024.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By Kristelle Medina, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>21822</u>