

ORDINANCE NUMBER O- 21387 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 08 2021

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 2,  
DIVISION 00 OF THE SAN DIEGO MUNICIPAL CODE BY  
REPEALING SECTION 52.20, RELATING TO OBSTRUCTING  
PUBLIC PLACES.

WHEREAS, the City Attorney is bringing forward San Diego Municipal Code (Municipal Code) sections for repeal that are either preempted by state law or are otherwise constitutionally problematic; and

WHEREAS, Municipal Code section 52.20, titled "Obstructing Public Places — Prohibited," makes it unlawful for any person to stand or sit on any sidewalk or crosswalk that obstructs the free use by the public or to stand around the entrances of any public building; and

WHEREAS, the section was originally adopted on July 6, 1908 by San Diego Ordinance O-3324 O.S. and incorporated into the Municipal Code on January 22, 1952 by San Diego Ordinance O-5046 N.S.; and

WHEREAS, Municipal Code section 52.20 is vague and does not provide adequate notice to the public as to what conduct is prohibited or guidance to police officers as to how it should be applied (*Lee v. City of San Diego*, 492 F. Supp. 3d 1088, 1095 (S.D. Cal. 2020); *Kolender v. Lawson*, 461 U.S. 352, 357 (1983)); and

WHEREAS, enforcement of the section could also unintentionally criminalize lawful, innocent behavior; and

WHEREAS, the City Attorney recommends that the Council of the City of San Diego (Council) repeal Municipal Code section 52.20 because it will prevent unnecessary constitutional challenges and potential unintended, arbitrary enforcement; NOW, THEREFORE,

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

Section 1. That Chapter 5, Article 2, Division 00 of the San Diego Municipal Code is hereby amended by repealing section 52.20.

Section 2. 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 3. 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 /s/ Paige E. Folkman  
Paige E. Folkman  
Chief Deputy City Attorney

PEF:hm:cm  
September 14, 2021  
Or.Dept: PSE  
Doc. No.: 2738883\_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of NOV 02 2021.

ELIZABETH S. MALAND  
City Clerk

By [Signature]  
Deputy City Clerk

Approved: 11/8/21  
(date)

[Signature]  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**  
**NEW LANGUAGE: Double Underline**

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PUBLIC PLACES.

**Chapter 5: Public Safety, Morals and Welfare**

**Article 2: Police — Police Regulations — Offenses Against Government**

**~~§52.20~~ — ~~Obstructing Public Places~~ — ~~Prohibited~~**

~~That it is hereby declared to be unlawful for any person to stand or sit on any sidewalk or crosswalk or occupy the same so as in any manner to obstruct the free use thereof by the public and passage thereon by pedestrians, or to hinder, molest or annoy any person or persons in passing along the same, or to obstruct or stand around the entrances of any public hall or public building within said City of San Diego.~~

PEF:hm:cm  
September 14, 2021  
Or.Dept: PSE  
Doc. No.: 2738884\_2

Passed by the Council of The City of San Diego on NOV 02 2021, 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"/>
Monica Montgomery Steppe	<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"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 NOV 08 2021

AUTHENTICATED BY: TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], 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 OCT 19 2021, and on NOV 08 2021.

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) ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California  
Ordinance Number O- 21387