

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 00 OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 52.80.01 RELATING TO TRESPASS
AND EXCEPTIONS THERETO.

§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) ~~W~~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) ~~W~~where their application would result in an interference with or inhibition of ~~peaceful picketing directed toward the business establishment~~, lawful labor union activities that are permitted to be carried out on the property by state or federal law, or activities protected by the California Constitution or the United States Constitution ~~peaceful political activities~~;
- (3) ~~W~~where their application results in or is coupled with an act prohibited by ~~S~~section 365 of the California Penal Code or any other provision of law relating to duties of innkeepers and common carriers; or
- (4) ~~W~~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-~~m~~a marital disputes; child custody or visitation~~s~~ 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.

(d) The purpose of this section is to protect the property rights of private business operators who open business premises to the public for specific business functions or services, while also recognizing and protecting the rights conferred by state and federal law. Nothing in this section should be construed to limit any right conferred by statutory or constitutional state or federal law.

MAG:amt
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